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CPE NETWORK TAX REPORT

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EXECUTIVE SUMMARY

PART 1. CURRENT DEVELOPMENTS

The tax landscape is ever changing with new developments or proposals appearing on a regular basis. Practitioners need to be cognizant of changes to properly advise clients. This material covers some of those changes since the last segment. *[Running time: 32:50]*

Learning Objective:

Upon completion of this segment, the user should be able to understand a variety of current tax issues including analyzing concerns surrounding tax preparation advertising campaigns and data privacy issues, identifying the impact of updated regulations for the sale of seized property, evaluating ongoing legal challenges to the Corporate Transparency Act and their implications for the upcoming reporting deadline, and discussing the new Form 15620.

PART 2. INDIVIDUAL TAXATION

Mike Giangrande explores year-end tax planning strategies to help reduce your clients' tax liabilities. He also highlights actionable steps that can be taken after the close of the taxable year and provides insights into planning for the potential expiration of TCJA provisions. *[Running time: 1:22:34]*

Learning Objective:

Upon completion of this segment, the user should be able to identify effective year-end tax planning strategies to reduce clients' tax liabilities, analyze post-year-end tax actions that can be implemented to optimize tax outcomes, and evaluate strategies to address the expiration of key provisions under the Tax Cuts and Jobs Act (TCJA).

ABOUT THE SPEAKERS

Ian J. Redpath, JD, LLM, is a nationally recognized tax attorney and consultant from Buffalo, New York, and is a principal in the Redpath Law Offices. Mr. Redpath has published numerous articles on contemporary tax issues and co-authored several books on tax topics. He has extensive national and international experience developing, writing, and presenting professional CPE programs. In addition to his active tax practice, he serves as Chairman of the Department of Accounting, Director of Graduate Accounting Programs, and Professor of Taxation and Forensic Accounting at Canisius College in Buffalo.

Mike Giangrande, JD, LLM, is a California licensed attorney and has been a tax practitioner for 25 years. He is licensed to practice before the United States Tax Court, has a B.S. in Accounting, an L.L.M. in Tax from Chapman University, and a J.D. from Whittier Law School with a certificate of concentration in business law. Mike has spent time as an adjunct professor of law and has served as a member of the Orange County Assessment Appeals Board.

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PART 1. CURRENT DEVELOPMENTS

Experts Forum

Experts' Forum is a popular feature in which we review recent developments in taxation. This month, Ian Redpath looks at concerns over tax preparation ads and data privacy, seized property sales, ongoing legal challenges to the Corporate Transparency Act, and the new Form 15620.

Let's join Ian.

Mr. Ian Redpath

Hi everybody, welcome to the program. I'm Ian Redpath. This is the segment where we go over a number of things that have happened, whether it's the courts or the IRS, things that have happened since the last time we got together. We have a lot of interesting things that have been going on, so let's kind of jump right into them.

We'll start with the National Association of Tax Professionals (NATP). In a statement on October 10th, they said they're very unhappy, and many of you were probably very unhappy when you saw an ad or ads that were being run. Essentially, what these ads did is, these ads promoted its full-service offshoot of TurboTax. And essentially what they did was they told taxpayers to leave their tax professional and come with us. And they also offered to beat whatever price. Bring in what you paid last year, and we will beat that. It's the best price guarantee. So basically, the idea was that customers are to leave their current tax professional, come to them, and they will give them, they'll beat the price. This is kind of working with a tax consultant, working with a TurboTax live expert, instead of you, instead of the CPA. And it's available only to legal U.S. residents through December 20th, 2024.

And again, it requires you to be eligible to file your 2024 individual tax return using this full service before midnight of April 2nd, 2025. And again, "bring in your what you paid, and we'll beat it." And of course, the National Association is very concerned about the fact that there's relationships that are developed, long term relationships often, or even short-term relationships. But, you know, the idea that TurboTax is going to provide an in-house tax expert for preparing, signing, filing returns on behalf of customers over the phone. If they use that, they won't be eligible to use the self-prep tool.

Intuit says that the typical call takes about an hour or perhaps two. And if it's really complicated, it could take a little bit more. The price of the service, state filing costs are tacked on separately on top of the basic cost of $89 for a federal return. And again, the taxpayer will have to bring in last year's receipt.

The concern is that obviously we have long term relationships. We have situations where we're relied upon professionals and it may be tax, it may be something more than just tax. The idea that they're advertising to break up with your tax advisor, come to us, we'll do your taxes, we'll do it cheaper, we guarantee you. They believe that this is something that is not appropriate. Intuit agreed to discontinue the ad campaign after this outreach. And it wasn't just this, it was other organizations, professional organizations. So at least, at least those ads will no longer be running. But don't be surprised if you may have had one or two of your clients that saw those ads and the next thing you know they're going to break up with you and go with this advisor from Intuit.

Now, kind of along the same line, in previous segments, we've talked about the fact that there's a big concern about the Google pixels, the Meta Pixels, and sharing data using it. So, for example, being able to tie advertising to the fact that you have children of a certain age. Using tax returns in order to generate advertising targeted to a particular group.

We have four members of Congress that have written a letter to the Department of Justice. They looked at the audit report of the Treasury Inspector General, their audit report on this particular issue, and they've asked the Department of Justice to look into the idea of these Meta Pixels using it for advertising. This is how fast things move. Now, the idea of training AI and algorithms which would even further enhance the advertising capabilities.

In 2023, there was a very negative report that found terrible privacy issues with Google Analytics Pixel Tool. TaxSlayer, H&R Block, Tax Act, and Ramsey Solutions were specifically called out in this letter. They were, for the most part, they were also in the Congressional Investigative Report. Think about what they're talking about, you prepare a tax return, not you but H&R Block or TaxSlayer, that software is generating a profile with the Google Analytics Pixel Tool, so they know how old you are, your income level, whether you have children, whether you have other dependents, and where you live. It's gathering a significant amount of information. Then, the algorithms, and now with the development and exponential growth of AI, the idea that they're going to be targeted advertising directly to you based upon the information in that return.

They've asked the Department of Justice to look into this and see if there are any violations of the law, any privacy violations here. The Treasury Inspector General had recommended that the IRS update Rev. Proc. 2013-14, which provides guidance to tax preparers on taxpayer consent, the format and the content of that, if they're going to be using any of their information. Well, they're not asking for permission to use it. It's just being generated automatically by this Google analytical tool with pixels. So basically, their concern is that that they're disclosing millions of taxpayers' tax data and they don't have consent. They've even suggested that there should be potential criminal liability here for knowingly and recklessly disclosing taxpayer information.

This is a serious thing. We had a scathing congressional report in 2023. The Treasury Inspector General had a scathing report, and now we have four members of Congress asking the Department of Justice to look into this. This is out there and something that doesn't involve you in particular unless you're working for one of those companies, but it's something to keep aware of. Maybe your clients may have heard about it. They may ask you specifically, well, what does this mean? Are you doing this type of thing? So, it's important that you have some knowledge of what's going on there.

All right, we have TD 10011. Final regulations and guidance were issued on the sale of seized property.

So, the IRS has a levy, they seized the property, they now have a sale. The seizure and the levy process, that's governed by Section 6335, and then they now make a sale. Well, these rules have not been updated for years. The IRS issued proposed regulations back in October of 2023. They've now finalized those regulations. And interestingly enough, they said almost no one commented. There weren't really any comments to address. But the authority to sell, Sections 6335 and 7805, the regulations, they have to allow a methodology of sale in order to provide for the greatest benefit. The IRS getting their tax from the seizure, there may be additional amounts due. The property may be worth significantly more.

The IRS recognized that they needed to modernize this. So, what specifically does this mean? It means the IRS can now start using online sales for seized property. This is the main thing. They can now use online sales for a greater range of purchasers, potentially higher bids, and also cheaper for the IRS. To have an online sale, they're looking at it as the best of both worlds. They get a larger audience, they get potentially higher bids, and they save costs. So, you know, this is a new procedure that will be effective for all sales of seized property as of November 5th of 2024.

Well, we've talked before about the case in Alabama that is now before the 11th circuit on the Corporate Transparency Act and the Beneficial Ownership Information Rules, the BOI rules. Now we have another case, Community Associations Institute v. Yellen. This comes from the Eastern District of Virginia. It's looking to say that the BOI and the Corporate Transparency Act are unconstitutional following the concept of the Alabama case, which is now before the 11th Circuit.

In this case, we have a group of a community association which represents entities and condominiums, condominium associations, homeowners' associations, housing cooperatives, business trusts, and planned unit developments. They represent a whole group in the community. They wanted to say that they fall under the not-for-profit statutory exemption.

Now, the reports for existing businesses will be due January 1, 2025. So, you know, the time for existing businesses is coming upon us pretty quickly. The court in this particular case, the U.S. District Court said, the exemption applies to organizations exempt under Sections 501(c)(3) or 501(a). And it says, to try to claim that this community organization somehow fits into that exemption, it just doesn't fit. You can't shoehorn this into there.

In the FinCEN FAQs, Community Associations that are not 501(c)(4) organizations have to file. That's the FinCEN and their FAQs, question 13. And when the court looked at it, the court said, you know what? You don't fall under the exemption. Now, this is just one of many cases that have happened. The decision is the second in just over a month in favor of the government.

An Oregon district court denied a request for a preliminary injunction for a group of existing and newly formed Oregon entities. That is the Firestone case, Firestone v. Yellen. They're trying to rely on the fact that claiming it is unconstitutional. And this is all based on the National Small Business United case where an Alabama district judge said, yeah, it's unconstitutional. And the courts have pretty much uniformly not followed that. So that seems to be a real outlier. It is in oral arguments before the, I believe, the 11th Circuit. And so, we'll see what happens with that. But, you know, there's certainly not a growing influence on saying, oh no, this is going to happen. For example, Hotze v. Yellen. Another case, a group of physicians and surgeons said it violated the first, the fourth, the fifth, and the 10th Amendment. And again, the court doesn't seem to be too favorable to the taxpayer.

We have another case that's scheduled for oral arguments right after January, Boyle. But again, the courts do not seem to be following, and it looks like the Alabama cases is for the most part going to be an outlier. Doesn't mean it's going to be wrong. Maybe the 11th Circuit will uphold it and so will the Supreme Court, but we'll wait and see. It's beginning to be more and more unlikely.

Well, now we have a case that probably will upset Aaron Rodgers, the Iowaska Church of Healing v. Werfel. The Iowaska Church, and if you're familiar, ayahuasca is a hallucinogenic. The federal appellate court affirmed the district court's decision to deny tax-exempt status to this Iowa-based religious entity when they use in their ceremonies the hallucinogenic ayahuasca without having prior approval. Now, the government does recognize that in some religious ceremonies there may be a hallucinogenic drug used, or a drug that is considered to be on the list of controlled substances, but you can get an exemption. So, a church can apply for an exemption. But in this case, they didn't apply for the exemption, or at least they didn't apply for it first to try to say, under the Controlled Substance Act it's a controlled substance, but it's our religious belief. It's used in our religious ceremonies. On its website, the church claimed that Ayahuasca is safe for anyone seeking help, and they stand by their core belief that ayahuasca has incredibly healing properties. And Aaron Rodgers would tell you the same thing. For those who for those who don't know who Aaron Rodgers is, the former quarterback of the Green Bay Packers, now the quarterback of the New York Jets. And he famously is a supporter of Ayahuasca.

So again, you can get it. There is a procedure. But Iowaska applied for tax exempt status under 501(c)(3), and they did not first seek the approval. And they continued to distribute the Ayahuasca during multiple ceremonies. They have since voluntarily ceased, but that's basically for fear of being prosecuted because they're distributing a controlled substance. So, they lacked the proper exemption. The IRS concluded that the organization did not exist exclusively for tax exempt purposes because the activities were illegal. And so therefore, since they were illegal, they didn't have an exemption.

The activities that they engaged in are not things that are covered under 501(c)(3). Now, you could say, but it's religious. Yes, but they didn't get or apply for an exemption. And so, the court said, the church's primary organizational and operational purpose, the ayahuasca use and the ceremonies involving ayahuasca, it's illegal on its face. Therefore, they're engaged in illegal activity without the exemption. So again, only the Attorney General and the DEA can make such an exception, or a federal court, but the Iowaska Church had neither. Even though they claim they voluntarily ceased the ayahuasca two years earlier, the IRS still denied it and said that they were engaged in an illegal activity.

We now have IR 2024-278. This is something that's important to talk to your client about. The IRS has issued this news release encouraging taxpayers to get an IP PIN. The IP PIN is a six-digit number that the taxpayer gets from the IRS, and the IRS uses that to confirm your identity when filing your federal tax returns. So not your social security number, the IP PIN then keeps your social security number or your individual taxpayer ID number confidential.

If your client is interested in obtaining the IP PIN, they should do so before November 23rd. Okay, it's past November 23rd, right? You can still apply for it. They were encouraging it because of the tax season starting obviously in

January, but you can still go ahead and apply for it. The best way for the taxpayer, and you can assist them, the best way for the taxpayer is to go on the IRS Online Account and create their login if they don't already have one. They'll be asked to verify their identity. Once they've verified their identity, the IRS then will give them an IP PIN. Now that IP PIN, they use for any returns they file during the period. The IP PIN would be if they file a return, filing an amended return, they would use the IP PIN for the amended return or a return that wasn't filed. They'll use the IP PIN for that purpose. You can go online on the IRS website and get an IP pin. You can also find information under Get Identity Protection PIN, IP, Identity Protection PIN.

All right, so we have IR 2024-276. I previously, in another program, told you that the IRS is setting up a new unit and that unit is going to be targeting partnerships. And so, the IRS in this release has said that the unit is going to focus on large and complex pass-through entities. It's actually started working. And the goal is to increase the audit rates, initially, on large pass-through entities. This is part of the approach to go after partnerships. We've been hearing about it for years. Now they're saying, yep, we've been telling you, and we are serious.

The new unit is going to ensure compliance. It's not just partnerships. It's pass-through entities, includes partnerships, S-Corps, and Trusts. That being said, the initial focus is going to be on partnerships. However, they may still look at other pass-through entities such as S-Corps. The emphasis will be on partnerships, but there will also be S-Corps brought under its purview.

We have a new form. The IRS in Alert 2024-2073 announced that they have a new form, Form 15620. This is to be filed for a partnership, for example, when a partner wants to elect the 83(b) election. What is that? You get property that is not an interest in a partnership, that is not fully vested, or subject to a substantial risk of forfeiture. Now, the general rule is you don't pick it up if it's not vested or it's subject to a substantial risk of forfeiture under 83(a). You don't pick it up until it vests or until the substantial risk of forfeiture is gone. I look at it and I go, my value is 50,000 today, but when this vests five years from now, it's going to be worth five million. Well, I don't want to pick up five million of income.

83(b) says you can elect to pick it up today at its value today. I'm going to elect to pick up $50,000 of income today. Now, the downside, you find out it wasn't quite as good as you thought. You knew that when they let you go. It never vests or you lose it under the substantial risk of forfeiture. You didn't stay the three years you had to stay working. You don't get a deduction. If you want to elect to pick up the income currently and not wait until the substantial risk of forfeiture is terminated or it vests, you're going to have to pick up the income now. But if for some reason you don't vest, you don't get a deduction for it. It's a risk you take.

Well, if you want to make the election, the election has to be within 30 days of the grant of the interest. The IRS has procedures to where it's to be filed in writing. This form is there and now is the new form of writing. However, the IRS says it isn't the only way. You can still send in, with all of the information, you can send in a statement. You can't file currently this form electronically. However, the IRS says they're working on that and in the near future, you should be able to file it electronically. Now, I don't think near future means, you know, January. You're probably talking a year from now but watch out for that. And they said, right now, you just send it in by mail just like you would the other statement. But it is available out there. Form 15620, it's available if you want to use it.

All right, so we have the Jenner case, and this is a tax court case. And in this particular case, the taxpayer was hit with FBAR penalties. And so, they requested a CDP, a collection due process hearing. That's, you know, on Code Section 6320, 6330. The court said, you know what, we lack jurisdiction over the taxpayers claim that the IRS denied the CDP hearing. So, you know, they get assessed the penalties. They file for a CDP hearing, collection due process hearing. It's denied. They file with the tax court. Because of the denial, the tax court says nothing we can do. FBAR penalties are not considered taxes. Since they're not considered taxes, you're not entitled to a CDP hearing. Something to keep in mind, you have somewhat limited rights.

All right. One last thing. Rev. Proc. 2024-40. This is the official 2025 tax inflation adjustment rates. So if you're looking for the inflation adjustments for 2025, look at Rev. Proc. 2024-40.

Well, I want to thank you for joining me today. As always, we covered a lot of things that have happened, the courts, the IRS, lots of interesting things out there. As always, please be safe. And as we start heading into tax season, let's try to make it a nice tax season, relaxing as much as we can. Good luck, good luck during tax season. Thanks for joining me, bye.

Current Material: Experts Forum

By Ian J. Redpath, JD, LLM

A. National Association of Tax Professionals (NATP), Statement of October 10

The National Association of Tax Professionals (NATP), said in a statement that it is upset and concerned by recent ads by Intuit, TurboTax. The ad promotes its "Full Service" offshoot of TurboTax. The 30 second commercial encourages taxpayers to “abandon their tax preparer" and use this new service. They offer a “Beat Your Price” from last year limited time offer. Intuit sells professional preparation software to the tax professionals that they now are telling taxpayers to abandon and switch to their new service.

The pitch to taxpayers is that they will spend “at least 10% less" on tax consultation by working with a TurboTax "Live Expert" instead of the tax professional that prepared their 2023 returns. It is available only to "legal" U.S. residents through December 20, 2024. The taxpayer must file their 2024 individual tax return using Full Service before midnight on April 2, 2025. TurboTax Live Full Service involves an “in-house tax expert” preparing, signing, and filing tax returns on behalf of customers over the phone. The taxpayers are those that are ineligible to use TurboTax's mainline self-prep tool. The company says a typical call takes about an hour or two but depending on the complexity could take longer. The complexity will affect the cost of the return and state returns are an add-on cost. The starting cost is $89 for federal returns, and customers need to provide a receipt for tax prep fees from the previous year to qualify for the "Beat Your Price" offer according to Intuit's website.

"Tax preparation isn't just about entering data or completing a form; it's about trust, accuracy, and making informed decisions," said NATP CEO Scott Artman. "The personal relationship between a tax preparer and their client is crucial. A professional knows you and your financial history, keeps you compliant with regulations and can adapt strategies based on your specific needs."

Intuit, like other major players in the commercial tax prep industry, has faced scrutiny in recent years for the marketing of its products, namely claims of false advertising regarding a lack of transparency over which returns can be filed for free. While Full Service differs from the various tiers of the TurboTax self-prep software in that pricing is more variable and promises to be estimated during the process, the commercial purports that its experts charge less but offer "more" compared to other CPAs and licensed preparers. Intuit has said it will discontinue the ad campaign.

B. Senators Elizabeth Warren (D-MA), Ron Wyden (D-OR), and Richard Blumenthal (D-CT), and Representative Katie Porter (D-CA) Letter to Department of Justice dated October 18

Four lawmakers have asked the U.S. Department of Justice (DOJ) to investigate major tax preparation companies' data privacy practices — accusing them of sharing protected, sensitive taxpayer information without proper consent. TaxSlayer, H&R Block, TaxAct, and Ramsey Solutions are specifically mentioned. The lawmakers accuse the companies of violating Reg §301.7216-3, which prohibits a tax return preparer from disclosing or using a taxpayer's tax return information without written consent. This follows up in the Treasury Inspector General for Tax Administration’s (TIGTA) September audit report that found the companies consent procedures to be inadequate. According to the lawmakers, Meta uses the activity data for advertising and to train AI algorithms. A 2023 congressional investigative report also found privacy issues with the Google Analytics pixel tool.

The TIGTA's report evaluated four unnamed tax software companies and concluded that while the companies did obtain taxpayer consent, the consents did not clearly inform the taxpayers of the intended use of the data disclosed. It concluded that the IRS needs to update Rev Proc 2013-14, which provides guidance to tax preparers on taxpayer consent format and content to clarify that a consent statement must identify the purpose of the disclosure and specific recipients. It also recommends that the IRS include that tax preparation firms must include the use of pixels and that the IRS track compliance with consent requirements by conducting "sample reviews" or "creating a data element to track if taxpayers are consenting."

According to the letter, the companies have "disclosed millions of taxpayers' tax return data, meaning they could potentially face billions of dollars in criminal liability." §7216 provides for a fine of up to $1,000 or one-year imprisonment for knowing or reckless disclosures of tax information by tax preparers and should be considered by the IRS.

C. TD 10011, 11/4/2024

The IRS has issued final regulations modernizing the rules governing sales of taxpayer property seized by the IRS by levy. The regulations were adopted and finalized November 4 with only minor tweaks and no substantive changes to the proposed regulations. The regulations are under §§6335(e)(2) and 7805(a). The regulations will allow online sales as well as more options with forms of payment grouping of properties. The IRS may consider methods that will produce the highest aggregate amounts from sales of seized property and the regulations clarify various aspects of bidding and remittance, such as the form used by bidders, time and consideration of bids, and bid withdrawals. The IRS hopes this will attract a wider audience for potential sales of seized property.

The final regs apply to all sales of property seized by the IRS, effective November 5, 2024.

D. Challenges to the Corporate Transparency Act

In another case challenging the constitutionality of the Corporate Transparency Act and the Beneficial Ownership Information rules, a federal district court denied the plaintiff's request for a preliminary injunction. The plaintiff group represents various community associations including condominium associations, homeowner associations, housing cooperatives, business trusts, and planned unit developments. The court held that they were unlikely to succeed on their claim that they fall under the Corporate Transparency Act's nonprofit statutory exemption. The cases are following the case out of Alabama granting a limited injunction against enforcement of the CTA against the plaintiff's members. The case is now on appeal in the 11th Circuit Court of Appeals. (*National Small Business United* (DC AL 3/1/2024) 133 AFTR 2d 2024-885).

The nonprofit exemption, according to the Court "applies not to 'organizations exempt from income taxes' generally, but to the discrete category of organizations 'described in section 501(c)... *and* exempt from tax under section 501(a)," which plaintiff organizations are not exempt under. FinCEN indicated in June 2024 updates to its Corporate Transparency Act FAQs that community associations that are not §501(c)(4) organizations may be required to file reports (question C.10). In addition, FinCEN clarified in its FAQs who qualifies as a beneficial owner of a community association (question D.13).

The plaintiff raised arguments under the Administrative Procedure Act notice-and-comment requirements and/or that they are arbitrary and capricious. The court rejected this saying that it just restates the law. The court also rejected arguments under the Commerce Clause, First Amendment and Fourth Amendment.

In September, an Oregon federal district court also denied a request for a preliminary injunction to a group of "existing and newly formed Oregon entities." (*Firestone v. Yellen*, 2024 WL 4250192 (D. Or. Sep. 20, 2024)) In another case challenging the Corporate Transparency Act, this time in the U.S. District Court for the Northern District of Texas. (*Hotze v. Yellen*, No. 2:24-cv-210-Z). Individual beneficial owners and the Association of American Physicians & Surgeons contend that the law violates the First, Fourth, Fifth, and 10th amendments as well as the Administrative Procedure Act. The plaintiffs moved for a preliminary injunction in the case on October 28 — requesting the court act before the Corporate Transparency Act's January 1, 2025, filing deadline. Another case in Maine has similar arguments (*Boyle v. Yellen*, No. 2:24-CV-00081).

E. *Iowaska Church of Healing v. Werfel,* 133 AFTR 2d 2024-1865

The IRS decision to deny tax exempt status to an Iowa based religious group was upheld by the Court of Appeals. The court agreed that the entity was using a controlled hallucinogenic substance in its ceremonies without prior approval.

The Iowaska Church of Healing's doctrine includes the use of Ayahuasca tea in its services. Ayahuasca is regulated by the federal government under the Controlled Substances Act (CSA) because it contains the hallucinogen dimethyltryptamine, or DMT. On its website, the organization claims Ayahuasca is "safe" for "anyone seeking help" and stands by its core belief in the "incredibly healing properties" of the plant.

A religious organization can obtain an exemption from the Drug Enforcement Agency (DEA) to possess and distribute controlled substances. But Iowaska applied for tax-exempt status under §501(c)(3) without first receiving a CSA exemption. It later applied for an exemption but did not receive a determination from the DEA. Regardless, it continued to distribute Ayahuasca during multiple ceremonies before voluntarily suspending future ceremonies for fear of prosecution. Since Iowaska lacked the proper exemption, the IRS concluded the organization did not exist for exclusively tax-exempt purposes because its activities were illegal and denied the status application after a series of information requests.

According to the IRS, Congress "has not authorized the IRS to make exceptions to the CSA when determining an organization's qualification for tax-exempt status" and the IRS does not administer the CSA. Only the Attorney General and the DEA can make such exceptions, or a federal court. Iowaska has no exemption from either.

Even though Iowaska voluntarily ceased its Ayahuasca ceremonies "two years *before*" the IRS denied its tax-exempt status application, the agency said the church hadn't expressed to the district court throughout proceedings that its primary injury underlying its claim was its denied application.

F. IR 2024-278

In this news release, the IRS is encouraging taxpayers to get an Identity Protection Personal Identification Number (IP PIN) for the 2025 tax season. An IP PIN is a six-digit number that is known only to the taxpayer and the IRS. The IRS uses this number to confirm the taxpayer's identity when they file their federal tax return. Using an IP PIN prevents someone other than the taxpayer from using the taxpayer's Social Security number or Individual Taxpayer Identification Number (ITIN) to file a return. Taxpayers interested in obtaining an IP PIN should do so before November 23, 2024. After that date, the IP PIN system will be offline for maintenance and will not be available again until January 2025.

The best way for a taxpayer to get an IP PIN is through IRS Online Account. Taxpayers should create or log into their online account at IRS.gov and verify their identity. Once verified, taxpayers need to click on the profile tab to request their IP PIN. After getting an IP PIN, the taxpayer must use it when filing their federal tax returns for the current calendar year and any previous years filed during that same period.

G. IR 2024-276

A specialized unit at the IRS that focuses on large and complex pass-through entities has officially begun work. This is a major step in the IRS's goal of increasing audit rates and stopping large partnerships from using pass-throughs to avoid paying taxes. It said the new unit would ensure compliance of pass-throughs of every size and form. That includes partnerships, S-corporations, and trusts. Previously, pass-through exams were divided between the IRS' LB&I and Small Business/Self-Employed (SB/SE) divisions based on the size of the entity. Now, revenue agents in pass-through field operations will be assembled into geographically based teams that are responsible for primary exams of pass-through entity returns. LB&I will be responsible for starting pass-through exams, regardless of entity size. SB/SE will continue to examine pass-through entities as part of a related exam of a tax return.

There is also now a new associate office that will focus exclusively on partnerships, S-corporations, trusts, and estates. This office will be drawn from the current Passthroughs and Special Industries Office.

H. Jenner, 163 TC No. 7

The Tax Court ruled that Foreign Bank Account Reporting (FBAR) penalties are not taxes subject to the collection due process (CDP) requirements in §§6320 and 6330. The IRS did not improperly deny the request for a CDP hearing.

The IRS assessed FBAR penalties against the taxpayers and they were informed that the funds would be withheld from their monthly Social Security benefits to satisfy their FBAR penalties. The taxpayers, a married couple, each requested a CDP hearing for the FBAR penalties.

The Tax Court explained that FBAR penalties are authorized and imposed by Title 31 (not the Internal Revenue Code, which is Title 26). Title 31, Section 5314(a), requires each U.S. person to "keep records, file reports, or keep records and file reports, when the resident, citizen, or person makes a transaction or maintains a relation for any person with a foreign financial agency."

I. Rev Proc 2024-40, 2024-45 IRB

The IRS has released the official inflation adjusted figures for more than 60 tax provisions. These adjustments generally apply to 2025 income tax-year returns.

GROUP STUDY MATERIALS

A. Discussion Problems

1. Your client has approached you about his daughter's income tax return. She used TaxSlayer software and has been getting very targeted email advertisements ever since. Your client, Suzanna, asks your thoughts. Is she just being overly cautious?

2. Jose, a new client, had some assets seized in levy and was notified they are going up for public sale. He wonders what means they will use to sell the property to get the highest amount to apply to his taxes.

3. Sangpai, a long-time client was recently the victim of identity theft. She is very concerned about releasing her SSN. Is there anything she can do when filing her taxes?

Required:

Discuss the issues fairly presented by the above facts.

B. Suggested Answers to Discussion Problems

1. You should advise her that some members of Congress have contacted the DOJ concerning certain tax software providers' use of google pixels to generate targeted advertisements by disclosing certain taxpayer information. You can review any consent she has signed related to the disclosure of her information. She could notify the IRS and the DOJ as there are potential criminal penalties under §7216 for improper disclosures.

2. Reference should be made to the new regulations under §§6335 (e)(2) and 7805(a). These have updated the rules related to the sale of seized property and include possible online sales.

3. You should recommend that your client obtain an Identity Protection Personal Identification Number (IP PIN). You can assist the client in setting it up on the IRS Online Account. This will be used for all returns filed for the year and any previous years such as an amended return filed during the year.

PART 2. INDIVIDUAL TAXATION

Tax Planning

In the segment on tax planning, we focus on short-term tax planning. This includes year-end strategies, actionable moves during tax season to reduce your clients' tax liabilities, and an important look at expiring tax provisions.

Let's join Mike.

Mr. Mike Giangrande

President Trump has won the election. Republicans have taken the Senate and Republicans have taken the House and so these really are the same conditions that were in place when the TCJA passed.

Now today in today's webinar, we are talking mainly about short-term tax planning. Short-term tax planning is what year-end moves can you make. What moves can you make during tax season to help lower your client's tax bill, but also expiring tax provisions. Now the TCJA's provisions, at least as they apply to individual taxpayers, the vast majority of those provisions were temporary covering tax years 2018 through 2025 and so we have tons of expiring tax provisions as the law stands right now set for next year.

Now, with President Trump soon to be in the White House, he has stated that he wants to make the TCJA provisions permanent. Now, with majorities in both the House and Senate, we can expect that most TCJA provisions will, at the very least, be extended. Now, can President Trump do everything he wants to do? Can he extend the TCJA provisions permanently? I think that that's much more questionable. The reason for that lies with the reason why the TCJA was only temporary for so many of its provisions. Many of the business provisions of that bill were permanent, but many of the individual provisions were temporary. It has to do with the Senate filibuster rules. Unless you can get 60 votes in the Senate, the opposition here this time would be the Democratic Party, would be able to filibuster any bill and it wouldn't get passed. But a bill can pass as part of that budget reconciliation process, but when you do that, you have to abide by the Senate's budget rules, which is why so many of the TCJA provisions were only temporary. Now, so the question becomes, will President Trump be able to extend TCJA provisions permanently, or are we going to see more of the budget reconciliation process that sees many provisions merely extended with an expiration date another four years, six years, eight years down the road.

Because don't forget, in addition to the items that are set to expire, Trump has made new promises. He said that he wants to have no tax on tips, no tax on overtime, no tax on Social Security, for example.

We know that the amortization provisions of research expenses that was part of the TCJA didn't take effect until later. We thought it was going to be retroactively repealed. It was never retroactively repealed. We know that both sides of the aisle kind of want to see that provision repealed, but because the two parties can't agree on any other bill, they can't seem to work that one into another bill.

So, what are we going to be, what's President Trump going to be able to do in terms of, is there going to be reaching across the aisle enough to get enough provisions into a tax bill to get 60 votes in the Senate, or are we going to see more budget reconciliation? And those are the things we're going to be following over the next year. And one thing is guaranteed to happen. We will have major, major tax law changes next year, before the end of the year. And the way that Congress works, it'll probably happen right at the end of the year. Even if the TCJA extension totally falls apart and we have everything sunsetting, well, that in and of itself are major tax law changes from '25 to '26. So, we're going to have big items next year.

Okay. So, let's move on to the actual written materials that I have here. And so, like I said, we have short-term planning and long-term planning. That's how I look at tax planning, as these two sort of separate and distinct things.

When it comes to long-term planning, I see long-term planning as something you are doing over many, many years; a decade, two decades, even, five decades in advance. You are planning ahead. And the kind of things we look at for long-term tax planning are the effects of retirement contributions beyond simply what's the deduction I can grab this year.

Really, what are the long-term effects? Should we do a Roth conversion or not because of what that's going to do later down the road? What are the benefits and burdens of investing in real estate? Is that a good way to divert some of your investment dollars? For our clients that own businesses, choice of entity decisions for their business. Those are really long-term decisions. Are you going to be a C Corporation, S Corporation, Partnership, Sole Proprietorship? How are you going to operate your business? Estate planning decisions, family decisions, try to use a family's assets to sort of raise the tide of all the boats they say, the rising tide of the family's wealth to try to leverage each other's assets to create more family growth. And those are the kind of things we look at in long-term planning.

Today's webinar, we're really focusing more on short-term planning. We're going to look at moves we can make before the end of the year. We're going to look at moves we can make during tax season. These are those few items, there are not tons of them, but there are a few items that we can do during tax season to reduce the tax bill for the year just ended. These are things like certain retirement contributions. These are going to be election decisions, in terms of tax elections to make. These are going to be depreciation decisions and that sort of thing. And then obviously we have to talk about expiring tax provisions. How do we plan ahead for expiring tax provisions?

Now, I have to pause on this one briefly when it comes to expiring tax provisions and where we think the tax code is going to go. I just talked about the fact that if President Trump wants to extend the TCJA provisions and he wants to extend them permanently. I think that we have to be careful when we talk about planning with clients. And, I am okay planning with clients for something that may change? As long as everybody's on board, I am on board, my client's on board, as long as they understand the risks. For example, I like planning based on what the law says today. And what the law says today is we're going to have lots of tax provisions expiring at the end of next year, the end of 2025. So, I am planning mostly as if those things are actually going to expire because that's what the law currently says.

I do recognize that now you have got the same party, the Republican President, Senate, and House. Now there is a much greater chance that the TCJA provisions will at least be extended. And so, we've got to be mindful of that. And we're talking about those expiring provisions and moves to make, and whether we're going to treat the expiration provisions as if they are actually going to expire. So that's what I have to say on that but, again, we'll talk about all of these things.

So, let's start with employer retirement plans, because retirement contributions are always a year-end planning item. And what I say to my clients who are employees of somebody else, employees who have access to a deferred compensation arrangement 401(k)s, 403(b)s, 457(b)s, SIMPLE IRAs, not so much our pensions like our SEPs and our traditional pension. The employees don't contribute. Only employers contribute. It's not a whole lot your employee client can do there. But when it comes to employee retirement contributions that they can make, they have to make their contributions by the end of the year to count them for the current year. An employee cannot take a 401(k), for example, where they are somebody else's employee and make a 401(k) contribution in January or February and count it for the year just ended. Not with those type of plans. They've got to make their contributions by the end of the year.

Also, if a client's not maximizing their employee contributions to the employer plan, they are missing out on employer matching dollars. I always tell my clients you should contribute as much as it takes to maximize the employer's matching at the very, very least. Because employer matching money is free money. All you have to do is invest for your own retirement and your employer's going to give you free money in exchange for doing that. Take advantage of that. Make sure you get the employer matching.

Now, I know that I went through a whole little spiel about this being about short-term planning, but I do want to discuss very briefly the planning point I had at the top of Page 2 dealing with taxable investment accounts. I am a huge, huge fan of IRAs, 401(k)s, and things like that. I love that tax-free growth if it's a Roth and tax-deferred if it's traditional account. I love the compounding you get from those accounts, but I do not want to overlook the fact that taxable investment accounts are very valuable in retirement.

There is nothing that stops your client from just having a taxable stock account that they use for their retirement funds. They are going to tuck money into that account, and they are never going to pull from it during the year. They know that's for my retirement. I am going to save that for later. You can do that with an account that's not an IRA and not a 401(k). What I like about using taxable investment accounts in addition to our IRAs and 401(k)-type accounts, is that when you have cash needs in retirement, you don't have to pull money out of that retirement account and generate ordinary income because in retirement, or anytime, but in retirement is what we're looking at here, you pull money from a 401(k), you pull money from an IRA, that's ordinary income to your client, and it's ordinary income by the amount that you pull from the account. The act of pulling cash out of the account is a taxable event. But if you have money just sitting in stocks, bonds, mutual funds, money market, that sort of investment account, the act of pulling money out is not a taxable event.

Now I recognize that if all of the assets in that account are invested in stocks, and you have to sell some stocks to generate cash, that will generate taxable income. But that taxable account, even though it's taxed every year, what is it being taxed on? Well, generally, it's going to be capital gains, usually qualified dividends. Especially if you are investing in domestic stocks, most of your dividends are going to be classified as qualified dividends. You are going to have capital gain distributions coming off mutual funds. And those are all taxed at long-term capital gain rates, which are less. So, when you have cash needs in retirement, you have to pull from one of these investment accounts, typically it's a lower tax rate. I really do like leveraging both the IRAs, the 401(k)s, and the taxable investment accounts. So don't overlook the benefit of advising clients to make sure they are building up those taxable investment accounts as well.

So, like I said, employee contributions have to be made by December 31st each year. Review contribution limits and client contributions and encourage clients to increase their contributions if possible. I always try to get all of my clients to maximize their retirement contributions. You get a 401(k), put the maximum you can. I like to tell people, put in more than you need to get the employer match. To get the employer match is just the bare minimum. But max out the account entirely if you can.

Now one thing I do in my practice is I use an Excel spreadsheet I send to my clients. I'll give my clients an Excel spreadsheet when I am done with the tax return. These are the clients that need to put money into retirement accounts, and I'll show them, "Here is your tax liability federal and state today and then the total tax burden down below." Not just the refund, but what's their total tax burden they paid in for the year. And then I'll have separate columns in addition to that. One column will show, "Here is how much your tax liability would have been if you had maximized your retirement contributions." And I show them the tax savings. Then usually I give them one or two more columns that show, you know, just lesser amounts on retirement contributions to show them the scale. But when I have a client that maybe is not doing well saving for their retirement and they see, "Man, I could have put another $20,000 in my 401(k), but it only cost me an extra $15,000 because I had $5,000 of tax savings." Like suddenly that clicks for them. And they realize, "My goodness, I need to be saving more for my own retirement."

They have got to be saving for their own retirement. And that little spreadsheet, for some reason, I do not know what it is, but it really makes it click for clients. And it's a good way to encourage people to invest more in their own retirement by showing them the tax savings. And don't forget, contributions to your traditional accounts, your traditional IRA, traditional 401(k), 403(b), 457, those non-Roth accounts, those contributions do reduce today's taxable income. And that's a great year-end planning strategy there.

Now, Solo 401(k)s though, are a little bit different. Both the employee deferral and the employer portion of a one-participant 401(k) plan of self-employed taxpayers can be made by the due date of taxpayers return including extensions. SEP IRAs work the same way.

So even though I just told you that for employees, you have got to have the employee deferral portion of the 401(k) done by December 31st, for Solo 401(k)s as well as SEP IRAs, the self-employed taxpayer can put both their employee deferral portion and their employer matching portion in the account by the due date of their return, including extensions. It is a really great thing when you have got a sole proprietor client who does a good job making money, and you are during tax season, and you say, "Gee, you can put $45,000 away, because of the level of your self-employment income." And their response is, "Yeah, that'd be great, but I do not have the cash flow right now. I have spent it because I can't invest in my own retirement," because let's face it, that's the answer. And you tell them, "Yeah, but we can file an extension for you. And you have until October 15th to make that contribution." They realize, oh, they can do that.

And here is a planning point if you are curious. And I do this every year for a couple of clients. You can file an extension and then file the income tax return by April 15th. And the act of filing the extension gives them until October 15th to put in the retirement contribution. Now, the risk of filing the tax return before making the retirement contribution is you are claiming the deduction on the income tax return. So, your client has to know that they have to contribute that exact amount by October 31st. If they contribute any more, you have to file an amended return to claim the extra deduction. If they contribute any less, you have got to file an amended return to remove a deduction.

But another thing that I have had to do with clients, which is perfectly acceptable, and you can do this, is I have filed the income tax return, then the client calls me and says, "I am not able to get my contribution in by April 15th, what do I do?" You say, "Don't worry, even though we've already filed your return, we can still file an extension after the tax return has been filed and the act of filing that extension gives them until October 15th. That's perfectly acceptable. I do it every year for a couple of people and it works, it's fine. No issues filing an extension after the tax return just for the purposes of giving yourself extra time to make those retirement contributions.

For employer plans, for your employers, the tax season move we want you to make here is when you have got the employer portion of retirement contributions, those can be made by the due date of the business return, including extensions, and are counted as a business deduction on the business return. So, if your employer plan allows for employer options, for example, let's say you have got a SEP IRA, you have five employees, 10 employees and your retirement plan is a SEP IRA that gives the employer the option of putting in more or less, maybe you decide to put in more this year in your employees' SEP plans to grab the deduction. There is nothing that says you can't put in more this year. Maybe you put in more this year, maybe a little less next year in order to leverage. Maybe you had a really good year this year. So, employer plans where you have the ability to change the dollar amounts, the more you put in, the more of a deduction you get, and you have until the due date, the extended due date of the income tax return.

SIMPLE IRAs. Starting in 2024, the SECURE 2.0 Act allows employers with SIMPLE IRAs to make an additional contribution, an additional non-elective contribution. So, employers can put in an extra $5,000 into their employees' SIMPLE plans, which is, if you think about it, it's almost like there is a portion of a SIMPLE plan that's treated like a SEP now in a way, where the employee puts in, the employer does their safe harbor match. But now, thanks to the SECURE 2.0 Act, the employer can put in up to another $5,000 into each employee's SIMPLE plan. Now, here is where I want you to be careful. For those of you who are thinking, your client's got a SIMPLE, they can just put $5,000 into just the boss's SIMPLE plan, you cannot do that because the additional contribution, like I said, cannot exceed $5,000 for any employee, but it has got to be applied on a uniform basis for all eligible employees who are in the plan, and you cannot exceed 10% of compensation.

So, what you could do is you could tell every employee, "I am going to take 10% of your salary and put that extra amount into your SIMPLE up to a maximum of $5,000 per employee." You could do that. But you can't just say, "Cool. I am going to put $5,000 into only my SIMPLE as the employer." You can't do that. There are some limitations there. Those are listed on top of Page 3, if you are interested. But I think it does give employers some nice flexibility to even add a little bit of a profit-sharing component to their SIMPLE IRA if they wanted to. And I think that that's a good thing that increases your deductions as an employer.

SEP IRAs on the other hand, starting at the bottom of Page 3, only accept employer contributions and they are typically discretionary. Because they are discretionary, the employer can choose to contribute more. You had a good year this year, employer is in a higher tax rate bracket. They contribute more to the employees' SEP Plan and get the deduction. Remember you have until, like I said with the 401(k)s, the extended due date of the tax return in order to put the employer's SEP contributions in and claim a deduction.

Now, one of the bummers, though, of a SEP IRA, particularly for our self-employed taxpayers, is a SEP contribution on behalf of the owner, well, I guess for everybody, but a SEP contribution does reduce your QBI, your Qualified

Business Income deduction. And so, I do have an example I want to go through on Page 4 on how you can leverage using both a traditional IRA and a SEP IRA for your self-employed taxpayers to help to not reduce your QBI as much. Because remember, contributions to a traditional IRA do not reduce your 199A deduction because they don't reduce your QBI, but SEP IRA contributions do.

And let's go through the example on Page 4 on how this works. Annie is self-employed. She's under the age of 50 and wants to make a $20,000 contribution to her retirement plan. She uses a SEP IRA and she also has a traditional IRA. The SEP IRA contribution, though, reduces her qualified business income, resulting in a reduced 199A deduction of up to $4,000. Now, let's just assume that she gets the full 20% deduction. We're not going to play with whether she was in the phaseout zone and all that. So, she puts $20,000 into her SEP IRA. She reduces her QBI by 20%. Therefore, she reduces her deduction by 20%. So, she loses $4,000 of her QBI deduction by putting $20,000 into her SEP.

This is always one of my concerns, one of my criticisms of the 199A deduction. I feel like it's one of those things that actually discourages people from putting into their retirement plans because it reduces a deduction. We want to see retirement contributions increase deductions, increase reasonable incentive to put into retirement plans. So here she loses $4,000. So instead of contributing $20,000 to her SEP IRA, what Annie should do is contribute $7,000 to her traditional IRA for which she can get a deduction and $13,000 to her SEP IRA to make up the total $20,000 retirement contribution that she wants to make.

The traditional IRA contribution does not reduce her QBI. Her QBI is only going to be reduced by the $13,000 SEP IRA contribution. And therefore, her 199A deduction is only going to be reduced by $2,600, not $4,000. So, you are saving her a deduction of an extra $1,400 by splitting into a traditional IRA and a 199A. But don't forget, traditional IRA contributions are only allowed up to the due date of the client's income tax return, not including extensions. So, if she needs until October 15th to make a retirement contribution, in this scenario with Annie, make sure she puts at least the $7,000 into the traditional IRA by April 15th. File an extension for her, and she can put the $13,000 into the SEP by October 15th.

Moving on to the bottom of Page 4 and Page 5. Starting in 2023, SEP and SIMPLE IRAs can now be designated as Roth SEP and SIMPLE IRAs. I will tell you that nobody I know, and I know a lot of people because we teach a lot of people, were able to open a Roth SEP or a Roth SIMPLE in 2023, because as of now, even today, I cannot find a single investment company that offers them. You call Merrill Lynch, Charles Schwab, Fidelity, John Hancock, Morgan Stanley, whoever they are, you call them and say, “I want to open up a Roth SEP.” And they'll say, “We don't offer it.”

I do not know exactly what's going on there. I suspect that these investment companies for some reason, and I have no idea why, they are waiting for more guidance from the IRS. I do not know what guidance is lacking for them because the SECURE 2.0 Act was pretty simple. It simply said you can have a SEP account designated as a Roth. It is really that easy. I do not know why they are unable to offer these yet. Hopefully, we will start seeing Roth SEPs and Roth SIMPLEs offered.

I think for some clients, well, for all clients, but some clients in particular, the Roth accounts are going to be great. I am a big fan of Roth accounts. I know most people and most conventional wisdom will tell you that you have got to evaluate your client’s tax situation today and their expected tax situation retirement, and that if they are paying more tax now than they expect to pay in retirement, then you should use a traditional account today and take the deduction while your client's in a higher tax rate. And you should only put into a Roth if your client's in a low tax bracket today and expects to be in a higher tax bracket when they retire. That way you are claiming the deduction at the point in their life, whether it's now or retirement, that's going to have the greater tax benefit for the contribution. That's sort of the more conventional wisdom.

I, on the other hand, I will tell you, I am more of a fan of sucking it up now, paying the extra tax and putting it into a Roth account if you can, because that Roth is going to grow not just tax deferred, but completely tax free. Because when you pull money out in retirement, not even the earnings are taxable. And so, for Roth accounts, the longer you have of that growth before you use the money in retirement, the greater benefit you get. So obviously Roths do benefit younger workers more. That does not mean that somebody who's investing for retirement at age 50 isn't going to benefit.

Also, there are no RMDs. So, if I do not need to pull the money out, I do not have to in retirement. That money can continue to grow tax deferred, even if I am 75 years old. Also, you don't know where your income's going to be later on. Maybe at 50 and 60 years old you got a pretty good idea of what your retirement income's going to look like. But I'll tell you, I am as avid an investor and somebody who knows my income, as well as anybody out there. I better be, being a tax attorney, right, who does tax work. But I'll tell you, when I was 30 and 35, even though I was very actively involved and still am obviously in my own finances, I couldn't tell you where my income was going to be at 65. So, I said, "You know what? I am just going to suck up a tax liability and I want to put money into the Roth now." And I think that for anybody, that's the better option, if you can stomach the extra tax liability today because the benefits you get down the road, especially with the unknowns, are huge.

Anytime I teach it, I always have somebody tell me, "But the government's going to get rid of Roths and they are going to start taxing Roth IRAs." Well, I mean, if you are going to take that level of skepticism, then why bother tax planning at all, right? That's my opinion on that one.

Anyway, I do have an example, though, I do want to go through on the middle of Page 5 on a Roth. Because there is one particular subset of taxpayers who I think really want to look at a Roth-SEP-type IRAs. Somebody who's self-employed, has positive self-employment income, but maybe they have no income tax liability for other reasons.

Let's look at the Albert example on the middle of Page 5. Albert is a self-employed consultant whose net earnings are $100,000 for 2024. Albert's wife Maria, though, entered a skilled nursing facility in early 2024, and the medical expenses were enough to reduce Albert and Maria's taxable income to $0 for the year. However, non-business deductions like medical expenses, itemized deductions, cannot reduce Albert's self-employment tax.

So even though he's got zero income tax, he still owes his self-employment tax. So, he's got a traditional SEP IRA. His maximum allowable contribution for 2024 is $18,587 based on his level of self-employment income. But because his taxable income is zero, he's going to receive no benefit by putting into a traditional SEP IRA. Because remember, a SEP IRA can reduce your income tax liability, but it won't reduce your self-employment tax because that self-employed person, their SEP IRA contribution is not taken on Schedule C, it's taken on Schedule 1. But if Albert uses a Roth IRA, great, he does not get a deduction, but he's no different. So now he's got a Roth account with no different tax scenario. Use the Roth for somebody like this.

This really became clear to me, I sort of knew this was the case, but it became clear to me when I thought back to a client I had a few years ago who was in this scenario. For about three or four years of their working career, this was their issue. It was a consulting client with a retirement job, making good money working part time, but the spouse had high, high medical expenses. And so, a Roth SEP for them would have worked really well.

Traditional IRAs. So, all taxpayers can contribute the lesser of the contribution limit for the year or their earned income. The limit for 2024, and I think for 2025 is the same now. Those inflation adjustments were just released not long ago. It's $7,000 plus the $1,000 catch-up for those age 50-plus. By the way, the SECURE 2.0 Act does increase that $1,000 catch-up for inflation, but it does not move until it's going to move, like, by a larger increment. So, for '23, '24, '25, now that dollar amount still remains at only $1,000. But if you have got a client who's a participant in an employer-sponsored plan, like a 401(k) or 403(b), they can have their deduction limited if their AGI is too high. There's a chart for that on the bottom Page 5.

Now when we talk about being a participant in a plan, really what you are going to look at to make this simple in your life is, is that retirement box checked on the W-2 your client gets from their employer? If they are, then they are a participant, because technically, if your client is a participant and they say their employer has a 401(k), but simply chooses not to participate, just does not put any money into the 401(k), then they are still a participant in the employer-sponsored plan, and that retirement box should be checked on their W-2.

If you are thinking about how the IRS is looking at documents, they are looking at whether that retirement box is checked to determine whether you are a participant and whether you can claim the deduction for putting into a traditional IRA. Don't forget the phaseout range for people who are married filing separately as long as you are still living together is zero to $10,000. It's really, really low. That's the caution box at the top of Page 6.

Now, traditional IRA contributions can be made by the due date of the tax return, not including extension. So, you have got to make them by April 15th. The only exception there, we've seen it a few times in the last few years now, is where there are the sort of presidentially declared disasters where the filing deadline is postponed. In those situations, the IRA contribution deadline is also postponed to whatever that filing deadline is for the county you live in. But generally, it's April 15th for everybody.

Also, non-deductible contributions, even if your client can't get a deduction for putting into a traditional IRA, don't overlook using non-deductible contributions. Now, remember I said I do like taxable investments as well, but if you want to still contribute to an IRA, you can, even if you don't get a deduction. Because you put the money into a traditional IRA, but you don't get a deduction, you are still going to get that tax deferred growth from your investment, but you are going to really want to be careful to make sure you are tracking basis. Use the Form 8606 to track basis.

Quick comment on Form 8606. The 8606 only has to be filed in the year you make a non-deductible contribution to an IRA or in the year you take a distribution from a traditional IRA where you have basis because that form calculates how much of the basis is used on the distribution. So, let's say a client makes a traditional IRA contribution every year for five years. And let's say he just makes $7,000 to make it simple, that's $35,000 in basis, and then does not make any non-deductible contributions for 20 years, and then starts pulling the money out. A Form 8606 has got to be filed in those years he makes the non-deductible contributions and then again, when he pulls the money out.

But what's happened in those intervening 20 years? Almost always the answer is they've changed their tax software, the tax professional is retired, so they got a new person. And so often that basis your client has is now lost. Nobody remembers it. The client does not remember what they are doing with basis, and you lose the benefit of the basis in retirement. For that reason, I always recommend if you have basis in traditional IRAs. Force the Form 8606 to print each and every single year. Because when you do that, you'll see in the first two lines, on the Form 8606 lines one and two, you'll see the basis that's carrying over. Because the basis won't carry over on any forms otherwise. It just carries over on worksheets that you may have or supplemental details to the tax return, but not on a form. Force that Form 8606 and get that basis carrying over every year on an actual form. Leave that paper trail for yourself. That's my planning tip on that.

So, if your client does make those non-deductible contributions, that does give them basis, and because they have the basis, they can do a backdoor Roth strategy. The backdoor Roth strategy is great if your client makes too much money to put into a Roth. What you can do is make a non-deductible contribution to a traditional IRA. Let's say it's $7,000, that gives your client $7,000 of basis in their IRA and they can immediately convert that $7,000 to a Roth. Because conversions have no AGI limitation, and even though a conversion is a taxable event, because you have got basis, you convert that $7,000, you have got basis of $7,000; therefore, you have no tax liability. But you have got to watch out for the aggregation rules.

The aggregation rules say that you have to treat all of your IRAs as one IRA. And so when you put money in, it's non-deductible, and you have other money in any IRA, whether it's a traditional IRA, a SEP IRA, a SIMPLE IRA, you have money in those other IRAs that are non-Roths, money in those other IRAs, then when you do the conversion you can only convert over and use the basis based on a ratio of your basis to your total balance.

Let's get a quick example of how that works. Top of Page 7 with Patty. Patty made a non-deductible $7,000 contribution to her IRA. She also has a rollover IRA with a balance of $180,000. So, her only basis is her $7,000. When Patty converts the $7,000 to a Roth, her basis in her IRA is $7,000. She must include all $187,000 in her computation of taxable income. So, what she ends up with, we look at the calculation there, is she ends up with taxable conversion of $6,783. She only used a couple hundred dollars of basis because of the way the calculation has to work. So, watch out for those aggregation rules. If you are going to use the backdoor Roth, it works best if your client does not even have any other traditional IRAs at all.

Qualified charitable distributions. Great options for clients who are utilizing standard deduction. If your clients are over age 70 and a half, even though I know the RMD age is 73 now, if your clients are over age 70 and a half, they can contribute from their IRA up to $105,000 in 2024 directly to charity. And when they do a qualified charitable distribution, when the money goes from the IRA directly to a charity, that counts towards your client's RMD. So, so many clients now, or particularly retired clients, are using the standard deduction. Heck, the standard deduction for a retired couple today is what, $30,000 plus now?

So, if they are using the standard deduction, they are getting no benefit by the charitable contributions they are sending to their church, for example, or whatever their charity of choice is. But let's say a client's got a $40,000 RMD and they regularly donate $10,000 to charity. What they can do with the QCD strategy is take $30,000 of their RMD in cash to themselves and have $10,000 sent from their IRA directly to their charities. And that meets their $40,000 required minimum distribution.

Now, if you do this QCD strategy, you have got to make your charitable contributions by December 31st. I have a caution for you here. Some IRAs, particularly when they know your clients want to do charitable contributions from the IRA, they'll give your client a checkbook for their IRA. So, they can write a check from the IRA directly to the charity.

Make sure your client makes their charitable distributions using that checkbook early enough in the year that the cash clears by December 31st. Because if that check does not clear by December 31st, then that money does not count as a distribution in the current year, and therefore, you may have a missed RMD by not taking it all in the current year, and you won't be able to count the QCD until the following year when the check is actually cashed. It does not matter that your client dated the check on December 31st. The investment company will not put that distribution on the 1099-R, will not treat it as distributed until the year the money leaves their bank account.

You cannot send qualified charitable distributions to donor advised funds or to private foundations any longer, but you do have the limited ability to send them using charitable gift annuities, charitable remainder trust and charitable remainder annuity trust. Your limit this year, I think, is $53,000. Once you can do it in your life and the limit is adjusted annually for inflation. This year, it's $53,000.

Inherited IRAs. So, the SECURE Act regulations do say now that designated beneficiaries must take RMDs to inherited retirement accounts if the decedent had reached their RMD age as of their date of death. The IRS did delay those RMD requirements until 2025 but remember the 10-year rule still applies. If you are a designated beneficiary, which is most adult beneficiaries, an inherited IRA now, inherited 401(k), whatever it is, if the decedent had reached their RMD age, then you have to take your first RMDs out starting 2025, based on your own life expectancy is fine, but you have got to drain the entire account by the end of the year attending the 10-year anniversary of the decedent's date of death.

I have more information on the inherited IRAs here, but I do not want to get into tons of detail on those. So, I want to make sure you know that when it comes to planning, if you have got an inherited IRA and you are a designated beneficiary, make sure you take that first RMD in 2025. This is for somebody who's died after 2019, make sure you take that first RMD in 2025 and make sure you distribute that entire account by the end of the year, containing the 10-year anniversary of the decedent’s date of death.

Let's talk about asset planning and going to capital gains and losses starting on Page 9 here. I have a long-term capital gain rate chart for you, bottom of Page 9. For our lower-income taxpayers, we really want to pay attention to clients who are near that zero percent long-term capital gain rate. If they are, make sure you are harvesting capital gains and utilize that long-term capital gain rate of zero if you can.

I find that lots of great tax planning and lots of great tax discussions with clients happen on the fringes. And what I mean by “happen on the fringes,” I mean, those clients who are right on the edge of tax brackets, whether it's the long-term capital gain rate bracket, the income tax bracket, the 199A threshold bracket, maybe your client is right on the edge of bumping up to the next Medicaid premium surcharge bracket, clients who are on those, what I am calling “fringes,” those are great, great planning discussions. So just a little bit of an AGI, the reduction strategy can do a lot for those clients, and they are very, very grateful for it. So, pay attention to this long-term capital gain rate bracket.

If you are in the 0%, harvest gains. If you are not in the 0%, harvest losses where you can. If your clients have a lot of long-term capital gains, then go generate long, if they've got losses in their portfolio, sell those investments, harvest those losses to offset gains during the year.

If your client invests in crypto, remember crypto is not subject to the wash sale rule, at least not yet. Which means you can, if you have got a lot of losses in your crypto account, but your clients got to say they sold a piece of real estate for a lot of capital gain this year, they could take those crypto losses, sell them and then turn right around, right around and rebuy the same exact stock, same exact crypto so they are still, they are keeping their investment in that crypto, but they are able to utilize those capital losses to offset their capital gains because the wash sale rules do not apply to them. I have got an example in the middle of Page 10 of the crypto wash sale rules if you are interested but I am not going to go through it. I am going to keep moving along.

I want to move on to depreciation issues starting on Page 10. I am sorry starting on Page 11, not Page 10. So, taxpayers can maximize their depreciation deductions by making asset purchases before the end of the year. Obviously, a purchase before the end of the year, you can take a depreciation deduction for it in this year, but a bigger deal is with the bonus depreciation. Now, I'll tell you, one of the things Trump wants to do is reinstate 100% bonus depreciation, but he's not going to be able to do that for the 2024 taxable year. He does not even take office until January of ‘25. And as the law stands right now, bonus depreciation is at 60% right now, drops down to 40% in 2025. So simply by buying an asset here in 2024, if you need it, you get an extra 20% bonus depreciation. Section 179, though, is still very favorable. So, remember you can go up to one point, the lower 1.2 million for a Section 179 depreciation in 2024. I have got the 179 chart for you there Page 11.

One of the benefits of Section 179 is it can be claimed on an asset-by-asset basis. You know, bonus depreciation applies automatically unless you opt out. And when you opt out of bonus though, you have to opt out for entire class, all of your five-year property or all of your seven-year property. But it applies for the entire class, and it applies by default. Section 179 does not apply by default, and it can be claimed on an asset-by-asset basis.

Now, one of the downfalls, though, of Section 179 is it cannot create a loss. You take a client's tax liability to zero -- I am sorry, take the tax from that entity down to zero from that source, and any unused 179 does carry forward, but you cannot create a loss. Can't create say an NOL that you can use against other sources of income. Bonus depreciation, the norm can do that. It seems to be less of an issue though when you are claiming bonus at less than 100%.

Up there is our bonus depreciation chart, Page 12, for bonus depreciation. Like I said the rate for 2024 is 60%, drops to 40% next year. Used property still does qualify for bonus, that was a great provision of the TCJA, so you can buy an asset used, like a used car and use bonus depreciation if you can. Both Section 179 and bonus can be used for a qualified improvement property. And qualified improvement property is the improvements made by a taxpayer to the interior portion of a non-residential building if the improvement is placed in service after the date the building was placed in service. But don't forget, qualified improvement property does not include any enlargements of the building, any elevators or escalators, or any internal structural framework of the building.

On Page 14, what I have got for you is a nice example of how you can leverage both bonus and Section 179 together to maximize your client’s depreciation deductions for the year and how you do that. I am not going to walk through it. It's a little bit of a detailed example on top of Page 14, but it is there if you are curious.

Election to capitalize carrying costs. It's a great election you can use to help your clients. It is not going to reduce this year's tax liability, but it will reduce your client's tax liability in the future. So, if you have got a client who has property, real property, that is both unimproved and unproductive, then what you can do is you can file the election under Section 266 to capitalize their carrying costs and their taxes.

Think about a situation. Actually, I think I have an example of it. Let's go to the example. Top of Page 15. This is Liliana. Liliana pays $6,000 in property taxes on a parcel of raw land. She also pays state income taxes of $15,000 in property taxes on her principal residence of $7,000. Because her SALT deduction limits her state and local taxes of

$10,000, she cannot essentially take a deduction for the taxes she pays on the raw land. But if she utilizes the Section 266 election to capitalize her taxes, she can take the $6,000 of property taxes she pays in that raw land and add it to her basis in that land. And so down the road, she can have a less-gain when she sells the property because she's added her taxes, her property taxes to her basis.

Also accounts for carrying costs. Carrying costs are any other costs of that raw land investment. Maybe it's, you know, if you have got any utilities going, you have got to pay for utilities to that raw land. Maybe you have got insurance on the raw land. Maybe you have got maintenance costs for clearing brush, for example. Those are all your carrying costs. So, if you like to capitalize your property taxes and carrying costs, you can add those to your basis. Now carrying costs on raw land like that are classified as 2% miscellaneous itemized deductions, which during the TCJA years are not deductible at all. So again, there is no harm in taking that 266 election. I think you really need to do it actually to capitalize those carrying charges.

And I am going to move on to the Section 199A deduction. We have not talked in great detail, I think, about planning for 199A since the COVID pandemic started. 199A from the time the TCJA was passed until COVID hit was the hottest thing. We spent tons of time on it. The IRS put out a lot of guidance on it, but when COVID hit in 2020 and we got PPP loans and employee retention credits and a bunch of new tax bills that came back-to-back to get through the pandemic, 199A died as a discussion. The IRS stopped putting information out on it because they had refocused their resources. At that point, most people felt like they had figured out 199A enough that they put their clients on autopilot and just sort of let things go.

So, let's not forget some of the great planning opportunities we still have with 199A. First of all, the business side of things, is your client a specified service trader business or a non-specified service trader business? Making that determination goes a long way because remember when your clients gets above the phaseout range of their taxable income – let me rephrase that. The QBI coming from specified service trades or businesses is no longer eligible for 199A. But if you are in a non-specified service trader business, now the wages that are paid in that business and the assets in that business, the UBIA they call them, the Unadjusted Basis of Assets Immediately before Acquisition, makes a big difference and that can save your deductions.

You could have somebody making $20 million a year still getting a full 20% deduction. They've got high wages, for instance. Now, I do have a chart of the phaseout ranges as 199A stands today for 2024. So, for example, in a married couple filing jointly, you start losing your deduction at $383,000 of taxable income. You don't lose your deduction fully though until you hit $483,000 and change. So, you have a $100,000 phaseout.

So, if you are an SSTB, an easy way to think about it is if you are halfway through your phaseout range, you are going to lose half of your 199A deduction. But when it comes to businesses who might have multiple trades or businesses within themselves, a mixed-service business, we really want to separate those mixed-service businesses. So, if you have got a client that's got a mixed-service business, we have to look at a de minimis threshold. And what the IRS says here is, let's say you have got a client who's got a business that has both an SSTB component and a non-SSTB component. If their gross receipts are under $25 million and it is, and less than 10% of their gross receipts are attributable to their SSTB, then the entire business is treated as a non-SSTB business. That threshold drops to 5% if your client's gross receipts are over $25 million.

Let's distinguish a mixed-service business, though, from multiple trades or businesses. If you have got multiple trades or businesses and one is an SSTB, one is a non-SSTB, as long as you keep separate books and records for each business, you can treat them as two separate and distinct businesses, which makes sense. Let's say, you know, let's say I am operating my tax practice hypothetically as a sole proprietorship, but I have also, maybe I really like to work with my hands and I have got, and I also own an auto shop as sole proprietorship. Auto shop is not an SSTB. Tax professional is an SSTB. So let's say I am operating my tax practice as a sole proprietorship SSTB, if I keep a separate set of books and records, file a separate Schedule C as I should be for that business, then any income from my tax practice, if I am over the phaseout threshold, I do not get a deduction for. But in my auto mechanic business, let's say I am a Sole Proprietorship, I have got employees and all that. If I am over the phaseout threshold, and I have a separate

Schedule C for that business, separate books, and records, I can still claim a 199A deduction based on my wages and my assets in that business because it's a separate trader business. Because we have to look at every business separately. That applies for clients who simply are investors in multiple partnerships and S Corporations. They may have some businesses that are SSTB and some that are not.

Now what I have got here is on Page 16, an example of somebody with multiple trades or businesses, if you are curious, I am not going to go through it, but the advice there for the clients is making sure you are keeping separate books and records for each of those separate lines of business.

Partners versus employees. Remember, partner who is in an SSTB business, because most partnerships, if they are earning, they are non-passive for you particularly, are probably going to be SSTB businesses. We see these, non-passive partnerships are mostly going to be our lawyers, our accountants, our architect, I guess an architect does not, but lawyers, accountants, our service-type businesses. And those are very often going to be SSTBs for those professional services.

One way you can maximize the 199A deduction is by bringing an employee on for being an employee to being a partner. It can be a 1% partner for all I care. They are a small partner, the income they generate from the business, that is now a qualified business income for them and becomes eligible for the 199A deduction.

There is, though, don't forget, a three-year look back on former employees. So, a weird little rule that the IRS put in the regulations because I think they were afraid of partnerships suddenly turning all of their employees into like nominal partners. And so, what the IRS said was, in the regulations was if you have somebody who used to be an employee and they are now a partner, there is a presumption that they are still an employee for three years for purposes of calculating the 199A deduction. And if you bring somebody on who is, you are truly making them a partner, it's not an issue for you. But the IRS I think here was afraid that people are going to wholesale turn employees into partners to try to manipulate 199A. So, I do not see that becoming an issue unless you are audited, really, or you are really trying to manipulate the rules.

Family partnerships and trusts. Don't forget we can spread family wealth and increase our deduction using 199A. And I have got an example I do want to go through on Page 17 here. I think this is a very common type of example for people, particularly those who are real estate investors who have kids.

Mary and Joe are in the trader business of leasing property and they net $500,000 per year in rental income from eight commercial buildings that they've owned for 30 years. The unadjusted basis of their properties is $2 million, and they pay no wages. Because they are over the top of the phaseout threshold, their initial 199A deduction is limited to only $50,000. $2 million of their asset's times 2.5%. That's how the calculation works.

They form an LLC and give each of their four children now a 10% interest in the entity, or in the LLC. Each of the four adult children is married and has $100,000 of joint income, all from W-2s unrelated to the family LLC. So here Mary and Joe's share of net income is now only $300,000, which puts them underneath the phaseout threshold and now they get the full 199A deduction of $60,000. They've lost $200,000 of income but they've gained an extra deduction.

Each of the children can also now claim the 199A deduction of $10,000 apiece, which is essentially their 10% share of the $500,000 times 20% QBI deduction. So here, Mary and Joe cut their taxes by over $62,000, and each of their four children has a tax increase of about $9,000 from their extra income, but their overall family reduction is about $26,000 of taxes. So not only have they done some nice effective tax planning and gifting to their kids, but they've increased the family's overall tax deductions. I said earlier that family tax planning is a great long-term planning strategy. In this case, it actually works as a nice short-term planning strategy, but also claiming extra deductions by utilizing Section 199A.

Now, don't forget that you also have a wage limitation. Now if you are over the phaseout threshold, your deduction is no longer 20% of your QBI. It's now 50% of wages, or 25% of wages plus 2.5% of your assets in the business up to a maximum 20% of your QBI.

Now, if you are an S Corporation, you can pay yourself wages. Partnerships do not have to use guaranteed payments. And even if they did do partners, guaranteed payments are not treated as the same as wages which means that if you are over the phaseout threshold and you pay yourself guaranteed payments out of a partnership, that's wonderful and all, it does not count towards the wage limitation on 199A. So, proprietors though can pay themselves wages and can count those wages towards that 50% or 25% limitation.

And so, we did a calculation way back when TCJA first came out. And this is an example that spans from Pages 18 and 19. I am sorry. This is the example on Page 19, where we calculated the optimal wage to flow through income for an S Corporation. So, if your client owns an S Corporation and they are an employee as well, how much money do you want flowing to your client as wages versus K-1 flow-through income? There is for Section 199A an optimal ratio there that will maximize your 199A deduction. And the answer is two/sevenths, with two/sevenths being wages, five/sevenths being flow-through income. That is the optimal ratio.

Now, caution here. You've always got to pay yourself reasonable salaries and wages for what you are doing. Two/sevenths has to be reasonable. But for you as a tax professional, we will call our golden ratio here, if you could look at your client's S Corporation, look at the wages versus what's being what's flowing through, if the wage portion is really close to two/sevenths of the total, then you know already that you are going a long way towards maximizing your 199A deduction for that client without having to sort of manipulate wages and flow through income.

Working on the personal side, moving on to Page 20. How do we maximize the 199A deduction and we're now looking at the 1040? Well, when our deduction is limited by our taxable income, then don't forget that even non-QBI income can increase our QBI deduction. So, remember when you, let's say your client is underneath the phaseout thresholds, make it simple, and they've got some qualified business income, their deduction is going to be the 20% of the lesser of their qualified business income or their taxable income. And so, if your client's taxable income, I am sorry, if they are limited by the amount of their taxable income, then increasing our taxable income using any source other than capital gains will increase our QBI deduction, even if you increase your wages. Because even though wages are not QBI, by increasing wages, you increase your taxable income, which reduces being limited in your taxable income limitation.

Let's go through an example to make that make sense in the middle of Page 20. Robin operates a Schedule C business that generates $200,000 of qualified business income. She files a joint tax term with her husband, Jay, who is unemployed. Their taxable income is only $160,000. Even though her Schedule C is $200,000, they are going to have standard deduction, itemized deductions, whatever they've got, other deductions are going to reduce their taxable income down to some lesser dollar amount.

So, they can claim a 199A deduction of $32,000, which is a lesser of 20% of their QBI or 20% of their taxable income. In this case, it's 20% of their taxable income of $160,000. If Jay gets a job that earns $40,000, then they'll have taxable income of $200,000, same as their QBI. And now they are going to end up with a 199A deduction increased to $40,000.

So, they are essentially getting a $20,000 deduction on Jay's income, even though he's earning W-2 income. Because remember, your Schedule C income in this case is $200,000. So, the maximum QBI deduction is $200,000 times 20%, which is $40,000. But Jay's unemployed, which means that their taxable income is less than the QBI and so they are only getting a 20% deduction on this lower dollar amount.

Jay gets a job; it increases their taxable income up to where you are no longer limited by your taxable income. Now you are claiming the full 199A deduction on the qualified business income here with Robin and Jay.

They've got a second example of that on Page 21 if you are curious, essentially in a situation where a client, instead of having Jay, you'll get a job, it's a different client where a client utilizes a Roth conversion to add taxable income and maximize their 199A deduction, essentially getting a 20% deduction against a Roth conversion. Example of that on Page 21. The concept is the same, though, so I am not going to go through it, but I'll let you go through that if you want to want your own.

Taxpayers whose taxable income is within the phaseout range can increase their deduction by reducing either their income or increasing their other deductions. This is where somebody who is within the phaseout range looking at making a deductible retirement contribution during tax season is a great option because it's going to help reduce their income below the phaseout range if we can and therefore increase their 199A deduction. Example of that on Page 22 if you are interested, but I am going to move along.

199A capital gains. So net capital gains are not included in taxable income for Section 199A, but they are included in taxable income when applying the phaseout threshold. So, taxpayers who are inside the phaseout threshold with capital gains, they do want to harvest losses, because by harvesting losses, they are able to, once again, maximize that 199A deduction.

I want to spend my next 20 minutes really talking about, for the most part, preparing for sunsetting TCJA provisions. So, getting back to the discussion we had at the top of the webinar. We know that now we have President Trump, Republican Senate, Republican House, and we know that President Trump wants to extend most of these provisions.

Now, he has said he wants to extend all of the TCJA provisions permanently. What I am sure is really going to happen is that the Republican tax writers in the House and the Senate are going to get together and they are going to realize that maybe they liked some of these provisions, maybe they didn't like others. Maybe they want to place extra emphasis on some. So maybe they won't all get extended, or they won't all be made permanent, if they are able to make any of them permanent. We're going to have some give and take. Maybe there is going to be, maybe there is going to be give and take on Section 199A, for example, to help pay for other provisions. There is going to be some horse trading going on, even within just the Republican tax writers.

And then you are going to have the Democratic tax writers who probably are going to say, “If you want us on board for any of this, we want this or that.” And we know what the Democratic side wants more than anything. There are two things I think that they would probably put emphasis on, and one is increasing the child tax credit. That was a big one of Kamala Harris' proposals, which I think that Republicans would probably be on board on, to be honest. They probably wouldn't mind increasing the child tax credit from the $2,000 to the $3,000 Harris wanted, but our democratic lawmakers, particularly those in the high tax states of California, New York, really want to see an elimination of the SALT, or at least the very least an increase from $10,000 to say $20,000. I do not know where they would be happy to fall, but they want to get rid of the SALT limitation.

But we want to start preparing now because as I said at the top of the webinar, we know where the law stands now, and we have to plan as if the law that stands now is going to happen. And right now, most provisions that apply to individuals are going to sunset. We have a chart for you that spans from Pages 26 to 28 of all the TCJA provisions that are scheduled to sunset at the end of 2025 and their current status. Most of these say, “not extended.”

Tax brackets. As it stands now, the TCJA tax brackets are going to expire at the end of 2025, which means in 2026, we need to be ready for higher tax rates. Now, here is our plan that can be a little easy for us. And I'll sort of give you the broad-stroke picture right now. As things stand now, tax rates are going up in 2026, and we're getting more deductions back in 2026, more itemized deductions. 2% miscellaneous itemized deductions are scheduled to come back. The SALT is scheduled, the State and Local Tax limitation, is scheduled to be eliminated. Our mortgage interest limitation is scheduled to go back to a million-plus deduction on the first $100,000 of equity debt. We're now getting more deductions for above-the-line deductions for moving expenses comes back. Just more deductions are coming.

So, what does that mean? Higher tax rates in ’26, mean we want to accelerate income into ’25, if we can. And we want to push out deductions to 2026, if we can. Accelerate income when tax rates are going to be lower in ’25, and delay deductions until 2026 when some of those deductions are now deductible at all in 2025, but also in 2026 they'll be more valuable because tax rates are scheduled to be higher. And so even if Trump is successful in extending or making permanent many TCJA provisions, we won't know, like there is not going to be a tax bill on January 21st, the day after he takes office. It's not going to happen. If we're lucky, we'll get some tax bill mid-year, maybe in the spring. Unlikely to be that fast though. What's more likely to happen, because Congress always works this way, is we'll get a tax bill towards the end of 2025. And if we're really lucky, now I am being sarcastic, if we're really lucky, we'll get a retroactive tax bill passed in ‘26, because Congress can't do anything on time, even when we're all within the same, even when the same party controls all three branches of government they still are not very efficient which means that we're still going to be in a good shape as tax professionals, advising our clients to try to accelerate income into ‘25 and push off deductions.

Because I think, in the worst-case scenario, if you do that, TCJA provisions get extended, and your clients end up no worse off than when you started. But if you don't do any planning, you don't try to accelerate income in the ’25, don't try to push deductions in 2026, and then something happens and the TCJA does not get extended next year, something happens, then your clients are going to be well positioned in that scenario. So that's my advice there, is plan for these TCJA provisions to sunset because the worst-case scenario is your clients will end up in a wash. That's what I want to say about that.

So again, the tax bracket scheduled to go up in ‘26. Standard deduction is scheduled to get cut in half again, back to pre-TCJA levels, but also the personal exemption deduction comes back. So that's scheduled to come back. Not a whole lot to plan for on the standard deduction, other than for you re-familiarizing yourself with the pre-TCJA itemized deductions.

Discharge student loans. If any student loan is discharged after 2025, they are no longer excluded from income.

Moving expense deduction’s coming back in. It's an above-the-line deduction for moving expenses. Schedule 1, if you look at it today, does contain a line item for moving expense deductions, but if you remember, under the TCJA, moving expense deductions are only eligible for active-duty military.

The Pease limitation, the overall limitation on itemized deductions comes back starting in 2026. So, I did say push off deductions if you can. If you are very high earners, they may still get limited anyway. Those are for your very high earners. Our SALT limitation goes away. Great, so the biggest thing we can do for our SALT limitation going away is push off your state estimates, push off your property taxes to the extent possible into 2026.

So definitely, definitely tell your clients that November property tax payment next year, pay it in January. Do not pay it at the end of the year. The worst-case scenario for you is that the TCJA gets extended, and your client ends up at a wash. But if there are any changes to the SALT limitation, right, TCJA for some reason is allowed to let the SALT sunset or the SALT limitation goes up, you are going to be much better off having pushed out that property tax payment to 2026. Same thing for your fourth quarter state estimates. Make sure they are not being paid by the end of 2025. They've got to pay those in January of 2026. You'll be in no worse position by making sure that happens.

Personal casualty and theft losses, once again, those are going to come in if the TCJA sunsets. Right now, you are only able to claim those for the most part on Schedule A for presidentially declared disasters. Yeah, you can still claim them for investment losses or for Ponzi losses, but personal casualty theft losses for non-presidentially declared disasters fully come in again, starting in 2026.

Mortgage interest limitation goes away, or at least the TCJA provision goes away, meaning you can now claim interest in the first million dollars of debt, won't matter when you took out the loan. You will once again be able to deduct interest in the first $100,000 of equity debt starting in 2026.

Our charitable contribution threshold will go from 60% of AGI back down to 50% of AGI. Minor item, I think, really, in the grand scheme of things. Not too many clients have charitable contributions, they really push that high. If you do, it just means you'll have a little bit more that carries forward.

All of our 2% miscellaneous itemized deductions come back. I will tell you selfishly, if you have been listening to me for long enough, that I was, I'll be honest, I was not terribly disappointed that a lot of 2% miscellaneous itemized deductions went away. I thought that, you know, particularly with employee business expenses, there was -- I questioned so many clients that I thought, “You are just making up numbers for me.” You know, and tax returns I have seen over the, you know, now quarter century, I have been doing tax returns. So many people just make up numbers on 2 % miscellaneous itemized deductions. The ones I am not happy that we lost, but I do have a lot of clients who use financial advisors and pay a lot of financial advisory fees, they should be able to deduct their investment expenses in my opinion.

The one I think is really unfair, if you have had a client that's had this happen to in the last few years with the TCJA, who's maybe had to pay attorney's fees, and they were not able to deduct their attorney's fees above the line, and those attorney's fees become non-deductible. So not only do you get this large settlement, you are taxed on your whole settlement, but you also don't get to deduct the 40% that went to the lawyer. Your client can end up taking home after taxes, and after paying their lawyers a very small amount of their settlement, which I think is a really an unfair provision. I really hope that if TCJA provisions are extended, that somehow, we move those attorney's fees away from being treated as 2% miscellaneous itemized deduction.

The alternative minimum tax, even though that didn't go away in the TCJA years, we had an increase in the exemption and an increase in the exemption phaseout thresholds under the TCJA. Well, those lower amounts come back into play starting in 2026, which means starting 2026, again, all things remain the same, if the TCJA does sunset, we're looking at having a lot more clients once again subject to the alternative minimum tax.

The child tax credit, TCJA if you remember, took the $1,000 child tax credit, turned it into a $2,000 child tax credit and also increased the phaseout. So pre-TCJA, if you remember, the child tax credit was $1,000 per child, and you started losing the credit for a married couple filing jointly when your AGI hit like a hundred, was like $110,000 I think it was. Whereas under TCJA, you get a $2,000 per child, and you don't start getting phased out for a married couple filing jointly until your income hit, your AGI hit, $400,000. So, so many more people were able to claim a much larger child tax credit. That, I will tell you, seems to be one of the provisions, one of the few provisions that both sides of the aisle really could agree on. They both seem to like having that higher child tax credit. That does help out those families.

Changes to ABLE accounts go away. Our unified exclusion, I have a number of examples here on Pages 34 through 37 or 38 on the unified exclusion issues. I am not going to go through them because we only have about six more minutes with you. But essentially what can happen when the unified exclusion, which today is just shy, I think for 2025, they just announced it's $13.99 million. I think it's $13.6 million here for ’24, is the number. January, it gets cut in half. And so, what that means is you are going back to $5 million plus inflation. If we've still got $13.99 million in 2025, which essentially going to look at is about $7 million, going to get cut in half, about $7 million on your unified exclusion in 2026.

You could face a situation possibly where you have gifted enough during life that you could end up with a greater tax, estate tax liability than assets remaining in your estate. And the regulations created a fix for that, which was great. But the advice there for people is because of that fix, that will not create a situation where you have more tax liability, estate tax liability than assets, is gifting strategies are huge right now.

High-income people can really benefit from long-term planning by doing some gifting. And when it comes to unified exclusion planning, a lot of that really is going to be done with the estate planning attorney, with your counseling if they need help with tax advice. But for those clients who need high-end estate planning, tell them to get on the calendar for their estate planning attorney now. I promise you, estate planning attorneys are already saying, “I do not have a capacity to take you on.” From June till the end of next year, the second half of 2025, their calendars are already full. Get on them now if you can to meet with the estate planning attorneys.

Business meals are scheduled to go back down, or to schedule to go down to 0% deduction for business meals after 2025 for both meals provided for the convenience of the employer and de minimis fringe benefits. So even now that the meals entertainment deduction and meals portion, entertainment has been zero and meals portion now is going to go away after 2025. We'll see.

Trump has really seemed to be wanting to provide benefits to the restaurant industry, restaurant workers; right. No tax on tips. No tax on overtime. If you remember, he really pushed for that when COVID really hit restaurants, pushed for 100% deduction for the meals, business meals provided by a restaurant, if you remember that provision.

So, I do not expect the 0% deduction for business meals to actually happen. I think that's going to be probably one of his targets to bring a lot of that back. We have some qualified opportunity zone issues. Don't forget that provision to delay or defer capital gains for investments in the qualified opportunity zones that also goes away at the end of 2025.

Approaching tax planning

Effective tax planning should include both short-term and long-term strategies. Short-term strategies, which are the focus of this webinar, include:

- Planning for year-end moves;
- Utilizing expiring tax provisions before it's too late; and
- Making decisions during the tax preparation process (such as what tax elections should be made and depreciation decisions, to name only a couple).

Long-term tax planning

Long-term tax planning occurs over many years and leverages tax laws as one of many tools to help clients generate real wealth. Long-term strategies include, among many others:

- Looking to the effect of retirement contributions beyond just claiming a deduction on this year's income tax return;
- Advising clients on the long-term benefits and burdens of real estate investing;
- Helping clients understand the choice of entity decisions for their business;
- Using a family's aggregate assets to leverage shared wealth creation; and
- Working with an estate planning attorney to utilize advanced trust agreements.

RETIREMENT PLANNING

RETIREMENT CONTRIBUTIONS

Employer plans

Contributions to traditional retirement accounts are typically made pre-tax and therefore reduce the taxpayer's taxable income, up to the contribution limits for the account at issue.

Employees who are participants in an employer sponsored plan should always contribute to their employer's retirement plan at least as much as necessary to maximize the employer's matching contributions. Employer matching contributions are free money.

Traditional retirement accounts (as opposed to Roth accounts) grow tax-deferred, so annual earnings within the accounts are not taxed. Instead, taxpayers must include distributions from traditional retirement accounts in their gross income. The eventual distributions are taxed at ordinary income rates)

☑Planning Pointer

Retirement accounts are one of the best ways to leverage tax-deferred growth to generate retirement stability. But don't overlook the benefit of a taxable investment account. While the earnings in taxable investment accounts are includible in gross income each year, most of the earnings in these accounts are typically derived from long-term capital gains and qualified dividends, both of which are taxed at long-term capital gains rates, which are lower than ordinary income rates.

Taxpayers who have done a great job investing in traditional retirement accounts in their working years can sometimes find themselves with large required minimum distributions in retirement.

Additionally, when taxpayers have unexpected cash needs in retirement, drawing from a taxable account to meet those needs doesn't result in additional taxable income, unlike traditional retirement account distributions.

Employer sponsored plans: Year-end moves

Employees must make their elective deferral contributions to their employer-sponsored plan by December 31 each year in order for the contributions to reduce their taxable income for the year. Taxpayers cannot make contributions after the end of the year and count the contribution as made for the prior year.

The 2024 employee deferral contribution limits for the most popular employer-sponsored plans are:

- 401(k), 403(b) and 457 plans: $23,000 ($30,500 for participants age 50+);
- SIMPLE IRAs: $16,000 ($19,500 for participants age 50+);
- Solo 401(k)s: $69,000 ($76,500 for participants age 50+).

Solo 401(k) limits and contribution timing

The solo 401(k) limits of $69,000 ($76,500 for participants age 50+) include both the employee deferral portion and the employer contribution portion.

The elective deferral portion of the employee contribution and the employer contribution can be made by the due date of the taxpayer's return (including extensions).

Employer-sponsored plan: Tax season moves to make

Unlike employee elective deferrals, employer contributions can be made into the employer plan by the due date of the employer's income tax return (including extensions).

The terms of the employer plan may contain required contributions that must be made, others have optional contribution amounts. The higher the employer contribution, the higher the employer's deduction for the year.

New solo 401(k)s can be set up after year-end

The SECURE 2.0 Act allows taxpayers to establish a new solo 401(k) and make both the employee elective deferral and employer contribution by the due date of the taxpayer's return (including extensions).

New additional employer contributions allowed for SIMPLE accounts

For taxable years beginning after December 31, 2023, employers can make additional nonelective contributions to employees' SIMPLE accounts for each eligible participant employee who receives at least $5,000 of compensation from the employer for the tax year.

The additional contribution:

- Cannot exceed $5,000 (indexed for inflation starting in 2025) per employee;
- Must be applied on a uniform percentage basis for all employees; and
- Cannot exceed 10% of compensation.
  (IRC §408(p)(2)(A)(iv))

The compensation taken into account for purposes of this additional contribution limit cannot exceed the qualified plan compensation limits set in IRC §401(a)(17), which is currently set at $345,000 for 2024. (IRC §408(p)(2)(A))

☑ Planning Pointer

This provision provides employers with more flexibility in their SIMPLE plans. For example, an employer with a SIMPLE plan can use this provision to make year-end employee bonuses directly into the SIMPLE plan (within the limits detailed above).

Additionally, employers can make the contributions by the due date of their business income tax return and count the deduction for the prior taxable year.

Example of additional employer SIMPLE contributions

SmallCo. is a smaller employer with a SIMPLE IRA retirement plan for its employees.

In addition to its regular employer matching contributions into the plan, SmallCo. contributes a portion of its year-end bonuses directly into each employee's SIMPLE IRA.

SmallCo. contributes 3% of each employee's compensation as a year-end bonus into the SIMPLE plan (up to the $5,000 limit per employee).

The benefit of this type of plan is that the additional SIMPLE contribution is not subject to Social Security or Medicare tax, which can help SmallCo. provide larger bonuses to its employees.

SEP IRAs

SEP IRA plans accept employer contributions only. The SEP document will indicate the amount the employer has agreed to contribute. This amount can be discretionary, including zero. Employers with discretionary contributions can increase their income tax deduction by increasing their discretionary contributions.

Sole proprietors with no employees are typically willing to make additional contributions to their SEP IRA plans.

SEP IRA contribution limits for employees can't exceed the lesser of 25% of the employee's compensation or $69,000 for the 2024 taxable year.

SEP IRA contribution limits for self-employed taxpayers require a special computation because a self-employed taxpayer's compensation is their net earnings from self-employment. This definition takes into account both:

- The deduction for the deductible part of self-employment tax; and
- The deduction for contributions made on the self-employed taxpayer's behalf.

The deduction for contributions made on the self-employed taxpayer's behalf and the net earnings from self-employment are dependent on each other and therefore require a special calculation, which can be found using the Deduction Worksheet for Self-Employed in IRS Publication 560.

SEP IRA contributions can be made by the due date of the employer's (or self-employed individual's) income tax return, including extensions.

☑ Planning Pointer

Remember, employer contributions, including SEP IRA contributions, will reduce qualified business income and can reduce a taxpayer's IRC §199A deduction. The reduction of the IRC §199A deduction is unfortunate, but the retirement contributions will almost certainly provide a greater benefit.

Traditional IRA contributions do not reduce a taxpayer's IRC §199A deduction.

For self-employed taxpayers whose traditional IRA contribution deduction is not limited, consider making the maximum traditional IRA contribution first ($7,000 in 2024, plus $1,000 catch-up for taxpayers age 50+) and then contribute to a SEP IRA.

Example of mixing traditional IRA and SEP IRA contributions

Annie is self-employed, under age 50, and wants to make a $20,000 contribution to her SEP IRA for 2024. The SEP IRA contribution reduces her qualified business income, resulting in a reduced IRC §199A deduction of up to $4,000 ($20,000 × 20% QBI deduction).

Instead of contributing $20,000 to her SEP IRA, Annie should contribute $7,000 to her traditional IRA and $13,000 to her SEP IRA to make up the total $20,000 retirement contribution she wants to make.

The traditional IRA contribution doesn't reduce Annie's qualified business income — it will only be reduced by the $13,000 SEP IRA contribution. By splitting her IRA contributions between her traditional IRA and her SEP IRA, Annie will only see a reduction of her IRC §199A deduction of $2,600 ($13,000 × 20% QBI deduction) instead of $4,000.

Using new Roth SEP IRAs and Roth SIMPLE IRAs

Small employers and self-employed individuals often favor SEP and SIMPLE IRAs because they are easy to establish and have no filing requirements for the employer, thus making them cheap and easy to administer compared to other employer retirement plans. Prior to 2023, SEP and SIMPLE IRAs could not be established as Roth accounts. The SECURE 2.0 Act allows these accounts to be set up as ROTH accounts beginning with the 2023 taxable year. (SECURE 2.0 Act §601; IRC §§402(h)(1)(C), 408(A))

However, any employer contributions to Roth SEP or SIMPLE IRAs are treated as taxable compensation to the employee.

Roth SEP IRAs: Tax season moves to make

Self-employed taxpayers should consider opening a Roth SEP IRA if they have self-employment income but because of large nonbusiness deductions have no income tax liability (or very low income tax liability).

This is because traditional SEP IRA contributions can only lower a taxpayer's income tax liability; they cannot lower the taxpayer's self-employment tax. So, if the taxpayer has no (or very low) income tax liability, they will receive little benefit from a traditional SEP IRA contribution. Additionally, they do not receive basis in SEP IRA contributions that do not provide a tax benefit to them.

In this scenario, a Roth SEP IRA is the perfect solution because the Roth account will grow tax-free, the earnings are never taxed, and the taxpayer will have no RMD requirement.

Example of SEP Roth IRA opportunity

Albert is a self-employed consultant whose net earnings are $100,000 for 2024. Albert's wife, Maria, entered a skilled nursing facility early in 2024, and the medical expenses were enough to reduce Albert and Maria's taxable income to $0 for the year. However, nonbusiness deductions (like medical expenses) cannot reduce Albert's self-employment tax of $14,219.

Albert has a traditional SEP IRA. His maximum allowable contribution for 2024 is $18,587 based on his level of self-employment income, but because his taxable income is $0, he receives no benefit from making a traditional SEP IRA contribution. The contribution cannot reduce his self-employment tax, and he does not receive any basis in the contributions.

If Albert establishes a Roth SEP IRA account, he can contribute up to the same maximum $18,587. The Roth account will grow tax-free, and distributions from the account will be tax-free when he retires. He will never have an RMD requirement.

Individual retirement accounts (IRAs)

Taxpayers can contribute to an IRA whether or not they are a participant in an employer-sponsored plan. However, if the taxpayer or their spouse is a participant in an employer-sponsored retirement plan, then the taxpayer's contribution deduction can be limited or eliminated if their income is above certain AGI thresholds

AGI Phaseout Ranges for Taxpayers Active in Employer-Sponsored Plans			
Beginning taxable year	**Single, HOH, MFS (did not live with spouse)**	**MFJ**	**MFS (lived with spouse at any time during year)**
2024 (Notice 2023-72)	$77,000–$87,000	$123,000–$143,000	$0–$10,000
2025 (Notice 2024-80)	$79,000–$89,000	$126,000–$146,000	$0–$10,000

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Caution

The AGI phaseout range for married taxpayers filing separate returns is $0–$10,000 unless the couple lived apart at all times during the tax year. In that event, the couple is treated as if they are not married for IRA contribution purposes. (IRC §219(g)(4)) Thus, only each individual's AGI and status as an active participant is taken into account, and the reduction begins at the AGI threshold applicable for unmarried taxpayers.

If the individual is not an active participant in an employer-sponsored retirement plan but the individual's spouse is, the IRA deduction limit is phased out for taxpayers with the AGIs listed here:

AGI Phaseout Ranges for Nonactive Participant Individual with Active Spouse		
Beginning taxable year	2024 (Notice 2023-75)	2025 (Notice 2024-80)
AGI phaseout range	$230,000–$240,000	$236,000–$246,000

IRAs: Tax season moves to make

Taxpayers can make IRA contributions by the due date of their individual income tax return (not including extensions) and count the contribution as made for the prior taxable year. This date is generally April 15 each year.

Taxpayers whose IRA contribution deduction is reduced or eliminated due to the AGI limitations immediately above can still make nondeductible contributions to their IRA, up to the contribution limits for the year ($7,000 for 2024, plus $1,000 catch-up for taxpayers age 50+). Such contributions do not provide a current-year deduction, but the contribution will grow tax-deferred until the funds are withdrawn years down the road. The taxpayer will also receive basis in their contributions, which must be tracked year over year and will reduce the amount of taxable distributions in retirement.

Nondeductible contributions can also be used for a backdoor Roth conversion strategy. The "backdoor" Roth conversion strategy allows high-income individuals to make a nondeductible contribution to a traditional IRA and then convert the traditional IRA to a Roth IRA. However, be aware of the IRA aggregation rules under IRC §408(d)(2) when considering a backdoor Roth IRA. Under the aggregation rules, the total value of all of the traditional IRA accounts becomes a component when computing taxability of the Roth conversion.

Example of simple backdoor conversion

Hank made a $7,000 nondeductible contribution to a traditional IRA. His income was $330,000, so he was unable to make a Roth contribution. Immediately after contributing the $7,000 to the IRA, he converted the $7,000 IRA to a Roth IRA in a nontaxable event. He had no other IRA accounts.

Example of aggregation rules

Patty made a nondeductible $7,000 contribution to her IRA. She also has a rollover IRA with a balance of $180,000. When Patty converts the $7,000 to a Roth, her basis in her IRA accounts is $7,000. She must include all $187,000 in her computation of taxable income. Patty's taxable amount is $6,738:

$180,000 ÷ $187,000 = 96.26%
$7,000 × 96.26% = $6,738

RETIREMENT DISTRIBUTIONS

Qualified charitable distributions

Using RMDs to make charitable contributions remains one of the easiest and best strategies for retirees. These distributions are known as qualified charitable contributions (QCDs) or the IRA-to-charity strategy. With the standard deduction high and the suspension of 2% miscellaneous itemized deductions through the 2025 taxable year, most seniors utilize the standard deductions and therefore do not receive a federal tax benefit from their charitable contributions.

Distributions to a QCD are counted toward the taxpayer's RMD but are not included in the taxpayer's taxable income. By sending some of their RMDs to the charities they already give to, a senior can reduce the taxable amount of their RMDs and realize a tax benefit of their charitable contributions.

Taxpayers may exclude up to $100,000 annually in QCDs from their AGI. (IRC §408(d)(8)) This amount is increased to $105,000 for the 2024 taxable year. (IRS Notice 2023-75)

QCDs are:

- Made directly by the IRA trustee to a charitable organization; and
- Made on or after the date the taxpayer reaches age 70½.

Comment

Some IRA trustees provide their clients with checkbooks attached to their IRA accounts. Charitable contributions made using checks attached to an IRA account count as distributions made directly by the IRA trustee.

Comment

Even though the age at which RMDs must begin is now 73, taxpayers can still make qualified charitable distributions starting at age 70½.

Distributions may not be made to a:

- Private foundation; or
- Donor-advised fund.

The SECURE 2.0 Act now allows for a very limited QCD to charitable gift annuities, charitable remainder unitrusts, and charitable remainder annuity trusts.

RMDs from inherited retirement accounts

Under the SECURE Act, most beneficiaries of retirement plans, IRAs, and some government plans of taxpayers who die after December 31, 2019, must distribute the entirety of their inherited account by the end of the year that contains the 10th anniversary of the account owner's date of death, even if the beneficiary is a named beneficiary.

Deaths prior to January 1, 2020

Taxpayers who inherited a retirement account from a person who died prior to January 1, 2020, are subject to the pre-SECURE Act RMD rules.

Three beneficiary classifications

There are three types of beneficiaries:

1. Nondesignated beneficiaries;
2. Designated beneficiaries; and
3. Eligible designated beneficiaries.

The distributions rules for retirement account owners who die after December 31, 2019, depend on which type of beneficiary inherits the account.

"Designated beneficiaries" and "eligible designated beneficiaries" are defined by the Code and regulations. Any beneficiary who doesn't fall under one of those two definitions is a nondesignated beneficiary.

Designated beneficiaries

Designated beneficiaries are generally individuals and "see-through" trusts that are not classified as eligible designated beneficiaries. Designated beneficiaries that inherit retirement accounts from decedents who die after December 31, 2019, must distribute the entire account by the end of the year containing the 10th anniversary of the decedent's date of death.

RMDs for designated beneficiaries

Under the regulations, designated beneficiaries must continue taking RMDs each year during their 10-year distribution period, ensuring that the entire account balance is distributed by the end of the 10-year period if:

- The deceased account owner had reached their required beginning date for taking RMDs at the time of their death; and
- The account beneficiaries are not one of the five types of eligible designated beneficiaries. (Prop. Treas. Regs. §1.401(a)(9)-2)

The five types of eligible designated beneficiaries are: Surviving spouses, minor children of the decedent, beneficiaries who are not more than 10 years younger than the decedent, disabled beneficiaries, and those who are chronically ill.

IRS provides relief from proposed RMD distribution rules

Through Notice 2024-35, followed thereafter by the final inherited IRA regulations, the IRS announced that designated beneficiaries who inherited retirement accounts after 2019 must start taking RMDs in 2025.

This rule applies to designated beneficiaries who inherited retirement accounts from account owners who died in 2020, 2021, 2022, or 2023. Under the IRS's regulations, these taxpayers would have had an RMD requirement prior to 2025 but for the IRS's previous delayed implementation of the RMD rule. This means that the taxpayer is treated as not having an RMD requirement in 2020 through 2024 at all, so Form 5329 for missed RMDs is not required for those years, and taxpayers do not have to increase their 2025 RMD.

Avoid a large tax bill later

Despite the fact that the RMD requirement for designated beneficiaries has been delayed until 2025, the 10-year clock on distributing the entire account still applies. Taxpayers who hold inherited retirement accounts without taking distributions may find themselves with a very large tax bill if they take all the distributions in only the 10th year (or in just the last couple of years of the 10-year period).

Consider taking more even distributions over the 10-year period to avoid a large balance later.

ASSET PLANNING

CAPITAL GAINS AND LOSSES

Gain or loss from the sale of capital gain property (such as investments) held more than one year is treated as a long-term capital gain or loss. (IRC §1222(3) and (4)) Property held one year or less is treated as short-term. (IRC §1222(1) and (2))

Long-term capital gains (as well as qualified dividends) are taxed at preferential tax rates that are lower than the ordinary income tax rates and detailed in the following chart. Short-term capital gains are taxed at ordinary income rates.

Individual Long-Term Capital Gains Rates (IRC §1(h))		
Rate	**Taxable income breakpoint (2024) (Rev. Proc. 2023-34)**	**Taxable income breakpoint (2025) (Rev. Proc. 2024-40)**
0%	Single: \$47,025 MFS: \$47,025 MFJ: \$94,050 HOH: \$63,000 Estates and trusts: \$3,150	Single: \$48,350 MFS: \$48,350 MFJ: \$96,700 HOH: \$64,750 Estates and trusts: \$3,250
15%	Single: \$518,900 MFS: \$291,850 MFJ: \$583,750 HOH: \$551,350 Estates and trusts: \$15,450	Single: \$533,400 MFS: \$300,000 MFJ: \$600,050 HOH: \$566,700 Estates and trusts: \$15,900
20%	No breakpoint	No breakpoint

Harvest losses before year-end

Taxpayers who have capital gains can sell other assets (usually stock) at a loss before the end of the year and offset the capital losses with capital gains. This strategy is especially useful where the capital gains are short-term. This is because the harvested capital losses will offset gains that are taxed at ordinary income rates.

Crypto losses are not subject to wash sale rules

The wash sale rules do not apply to cryptocurrency (at least not currently). (IRS Notice 2014-21) This means taxpayers wishing to harvest tax losses from the drops in the cryptocurrency market may be able to do so without having to comply with the 30-day wash sale period.

Under the wash sale rules, taxpayers who sell stocks and then purchase other substantially similar stocks within 30 days of the sale date may not claim a loss on their stock sale. (IRC §1091) Rather, the loss amount is added into the computation of the new stock's basis.

Example of wash sale rules

Mo purchases 50 shares in Lost Ark, Inc. on May 1, for $10,000. On May 15 he sold the shares for $8,000, realizing a loss of $2,000. Five days later he bought another 100 shares of Lost Ark for $7,500.

Because the new stocks were purchased prior to the end of the 30-day period, Mo may not deduct a $2,000 loss. Rather, the basis in the newly acquired stock is increased to $9,500 ($7,500 purchase price + $2,000 loss). This results in Mo not benefiting from the loss incurred in selling his initial shares until the newly purchased stock is sold.

Because the wash sale rules do not currently apply to cryptocurrency transactions, cryptocurrency owners can sell their cryptocurrency at a loss, lock in the loss amount to apply against the taxpayer's other capital gain, and then turn around and purchase the same cryptocurrency at the reduced rate, without having to wait 30 days to do so.

Harvest gains for lower income taxpayers

Taxpayers whose taxable income is below the breakpoint for long-term capitals gains to be taxed at 15% in the chart above can sell capital assets (again, usually stock) for a gain and take advantage of the 0% long-term capital gain rate bracket.

☑ **Planning Pointer**

Taxpayers who undertake long-term planning and utilize Roth accounts for their retirement contributions can help keep their taxable income very low during their retirement years. Not only will their Roth distributions be tax-free, but the Roth accounts can help keep the taxpayer's AGI low, which can mean a smaller amount of Social Security benefits are taxable.

With all of these income-lowering attributes working for the taxpayer, they will have a greater chance of being able to keep themselves within the 0% long-term capital gain rate bracket.

DEPRECIATION

Depreciation is one of the few items in a tax professional's toolbox to maximize tax deductions after the end of the taxable year. The bonus depreciation rate is no longer 100%, so tax professionals may need to leverage a combination of bonus depreciation and IRC §179 expensing to maximize a client's depreciation deductions.

IRC §179 expensing

The IRC §179 expensing limitation is $1 million, and the phaseout threshold is $2.5 million for property placed in service in tax years beginning after December 31, 2017. (IRC §179(b)) These figures are adjusted for inflation annually. The inflation-adjusted figures are:

IRC §179 Expensing		
Assets placed in service in tax years beginning after …	**Expensing limitation**	**Phaseout threshold**
December 31, 2023 (2024 tax year) (Rev. Proc. 2023-34)	$1,220,000	$3,050,000
December 31, 2024 (2025 tax year) (Rev. Proc. 2024-40)	$1,250,000	$3,130,000

If the total assets placed in service by the taxpayer during the year exceed the expensing limit threshold, then the IRC §179 expense is subject to a dollar-for-dollar limitation.

Bonus depreciation

Bonus depreciation is taken after any IRC §179 expense deduction and before regular depreciation.

Bonus Depreciation Rates		
Date placed in service	**Bonus depreciation percentage**	
	Qualified property in general/specified plants	**Longer production period property and certain aircraft**
2018–2022	100%	100%
2023	80%	100%
2024	60%	80%
2025	40%	60%
2026	20%	40%
2027	None	20%
2028 and thereafter	None	None

Bonus depreciation: Moves to make before year-end

Because the bonus depreciation rate is set to drop by another 20% for assets placed in service after December 31, 2024, consider purchasing business assets before the end of the year to help maximize the current deduction for these asset acquisitions.

Qualified improvement property

Qualified improvement property is eligible for both IRC §179 expensing and bonus depreciation and is defined as 15-year MACRS property. (IRC §168(e)(3)(E)(vii) and (g)(3)(B))

Defining qualified improvement property

"Qualified improvement property" is any improvement made by the taxpayer to the interior portion of a nonresidential building if the improvement is placed in service after the date the building was first placed in service. (IRC §168(e)(6)(A))

However, qualified improvement property does not include any expenditure attributable to:

- Enlargement of the building;
- Any elevator or escalator; or
- The internal structural framework of the building.

The "made by the taxpayer" phrase was added by the CARES Act. The impact of adding this phrase is that if a taxpayer acquires a building that has qualified improvement property, then none of the property will be treated as qualified improvement property because the taxpayer did not make the improvement. Therefore, the property will be depreciated over 39 years rather than 15 years.

Remember that improvements to a residential rental property are not qualified improvement property.

Used property qualifies for bonus depreciation

Bonus depreciation can be claimed for new and used property (subject to an exception for acquisitions from a related party).

To be eligible property, the property must meet either the "original use" requirement (IRC §168(k)(2)(A)(ii)) or the "used property acquisition" requirement. (IRC §168(k)(2)(E)(ii)) Taxpayers cannot claim bonus depreciation when they convert personal use property to business use.

Electing out of bonus depreciation

Bonus depreciation **must be claimed** unless a taxpayer makes an election out. (IRC §168(k)(7)) The election applies to a class or classes of property (e.g., property in a three-year class), not to a particular asset within that class. To make an election, attach a statement to a timely filed return (including extensions) indicating the class of property for which you are making the election. (Form 4562 Instructions)

IRC §179 versus bonus depreciation

Specific property

IRC §179 and bonus depreciation are not always available for all property. Specific types of property may dictate which deduction to claim. Consider the following:

- IRC §179 can be claimed for HVAC units, roofs, fire alarms, and security systems purchased for nonresidential property. Bonus depreciation cannot;
- An IRC §179 limitation of $31,300 for 2024 applies to sports utility vehicles that are over 6,000 pounds and not more than 14,000 pounds gross vehicle weight and certain larger vehicles;
- For cars and passenger trucks, claiming bonus depreciation means a $20,400 cap in the first year, whereas if IRC §179 is claimed, the deduction is limited to $12,400; and
- Bonus depreciation must be taken on all property in a class, while IRC §179 may be claimed on all or a portion of the cost of one or more items of qualifying property.

Loss or no loss

Determining whether the taxpayer wants to generate a loss can affect whether bonus depreciation or IRC §179 expensing is claimed. The IRC §179 deduction is limited to a taxpayer's net income from the business and cannot create a tax loss. Disallowed IRC §179 expense is carried forward and can be used in a future year.

However, bonus depreciation may create a loss that can offset the taxpayer's income in the current year from other sources.

Combining bonus depreciation and IRC §179 expensing

Bonus depreciation of 100% has been the norm for over four years. The reduced bonus depreciation rate beginning for property placed in service in 2022 will once again give rise to strategic use of bonus depreciation combined with IRC §179 expensing to deliver the greatest depreciation deductions for our clients.

Example of combining bonus depreciation and IRC §179

Sandman, Inc. placed $2.5 million of assets in service in 2024 (assume all new assets are 5-year machinery). All assets are eligible for bonus depreciation and IRC §179.

If Sandman only used the default bonus depreciation, then its depreciation deduction would be:

Assets placed in service during 2024	$2,500,000
Bonus depreciation rate	60%
Bonus depreciation deduction	1,500,000
Regular depreciation deduction*	200,000
Total depreciation deduction	$1,700,000

* Sandman can also claim regular depreciation for the year on the remaining $1,000,000 of assets not consumed by bonus depreciation

If Sandman elected out of bonus depreciation and only used IRC §179 expensing, then its depreciation deduction would be limited to the $1.22 million expensing limit for the year.

Sandman can combine bonus depreciation and IRC §179 to maximize its depreciation deductions:

Assets placed in service during 2024	$2,500,000
IRC §179 expensing limit up to the annual limit	1,220,000
Remaining assets eligible for bonus depreciation	1,280,000
Bonus depreciation rate	60%
Bonus depreciation	768,000
Regular depreciation	102,400
Total depreciation and §179 deduction	$2,090,400

ELECTION TO CAPITALIZE CARRYING COSTS

Taxpayers are permitted to capitalize annual taxes and carrying charges for real property that is both unimproved **and** unproductive (generally, raw land). (Treas. Regs. §1.266-1(b)(1))

With the limitation of the state and local tax deduction still in effect through 2025, the election to capitalize carrying costs can at least provide a future benefit for today's expenses. (Treas. Regs. §1.266-1(b)(2)) Unfortunately, there are limitations that prevent taxpayers from making this election for their personal residence or vacation homes.

Caution

This means that property taxes and carrying costs (such as maintenance and utilities) can be added to the basis of raw land but not other real property. While taxpayers have alleged that the regulations and Congressional intent imply that you can capitalize property taxes for all real estate, the courts have disagreed. Specifically, in ***Megibow v. Comm.*** ((1955) 218 F.2d 687), the court held that taxes and interest paid on a personal residence could not be added to the basis of the property under IRC §266.

Example #1 of capitalizing property taxes on raw land

Liliana pays $6,000 in property taxes on a parcel of raw land. She also pays state income taxes of $15,000 and property taxes on her principal residence of $7,000. Because her deduction is limited to $10,000 for state and local taxes paid, she elects to capitalize the taxes paid on the parcel of raw land (that is, the $6,000 gets added to the basis of the property).

Example #2 of capitalizing property taxes on raw land

Rocco and Bianca also pay $6,000 in property taxes on a parcel of raw land. Their other deductions include $10,000 in home mortgage interest, $3,000 in state income taxes, and $5,000 in property taxes on their principal residence. Their total allowable itemized deductions are $20,000 ($10,000 in home mortgage interest and $10,000 of state and local taxes). Therefore, they use the standard deduction of $24,000. Although most of their deductions are "wasted," they can get value out of the property taxes paid on the raw land by capitalizing them under IRC §266.

QUALIFIED BUSINESS INCOME DEDUCTION

Planning for the IRC §199A deduction can be broken out into two categories:

- Maximizing the IRC §199A deduction at the business level; and
- Working with income and deduction numbers on the personal side.

WORKING WITH THE BUSINESS SIDE

Specified service trades or businesses (SSTBs)

For taxpayers over the top of the phaseout range, it makes a great deal of difference whether the business is an SSTB or a non-SSTB. Taxpayers whose taxable income is above the phaseout range receive no IRC §199A deduction from specified service trades or businesses.

IRC §199A Phaseout Range		
Filing status	**2024 (Rev. Proc. 2023-34)**	**2025 (Rev. Proc. 2024-40)**
Married filing joint	$383,900–$483,900	$394,600–$494,600
Married filing separate	$191,950–$241,950	$197,300–$247,300
Single and HOH	$191,950–$241,950	$197,300–$247,300
Note: The above are taxable income amounts immediately before the IRC §199A deduction and are not reduced for net capital gains		

One mixed-service business versus multiple trades or businesses

If a trade or business has SSTB gross receipts in excess of a *de minimis* threshold, then the entire trade or business is treated as an SSTB.

De minimis threshold

If the business's total gross receipts are $25 million or less, and less than 10% of the gross receipts are attributable to the specified service trade or business component, then the entire business is treated as a nonspecified service trade or business. If the business's total gross receipts are greater than $25 million, then the *de minimis* threshold is reduced to 5%. (Treas. Regs. §1.199A-5(c)(1))

However, the IRS's commentary in the preamble to the final regulations also states that a business can have multiple trades or businesses within it. In other words, a single business entity can have one trade or business that is an SSTB and one trade or business that is a non-SSTB.

Tax professionals should advise their clients, at a minimum, that each separate trade or business should be treated as its own stand-alone business. This means keeping separate books and records and, to be safe, setting up separate legal entities. Consider the following example.

Example of multiple trades or businesses

John owns 100% of a bookkeeping/tax preparation practice (an SSTB) that operates as an S corporation. John's S corporation also owns 100% of a real estate management business (a non-SSTB) that operates as an LLC.

John is single, and his taxable income is over the top of the IRC §199A taxable income phaseout range.

Both the S corporation and its single member LLC utilize the same office space and staff, but the businesses maintain their own separate books and records. To this end, John's employees receive two W-2s each year, one from the S corporation and one from the SMLLC.

In 2024, the S corporation will treat the bookkeeping/tax practice as one trade or business and the real estate management as a separate trade or business and will report the following items to John on his K-1 (attached to the K-1 as a supplemental statement):

	Bookkeeping and tax practice	**RE management practice (SMLLC)**
Gross receipts	$600,000	$300,000
Qualified business income (box 17V)	$200,000	$90,000
W-2 wages (box 17W)	$250,000	$90,000
UBIA* (box 17X)	$50,000	$20,000
Specified service trade or business	Yes	No

* unadjusted basis in qualified property immediately after acquisition

Had John not bothered to maintain separate books and records, he would not have received any IRC §199A deduction because the entire S corporation would have been treated as a single SSTB, and his taxable income is over the top of the phaseout range.

Because he kept separate books and records, he will get a deduction from the real estate management business of $18,000 (20% of his $90,000 QBI).

Employees versus partners

Specified service trade or business partnerships (such as public accounting and law partnerships, among others) may want to consider bringing employees on as partners. These types of partnerships can provide a nice benefit to their employees by elevating them to junior partner, thus making the new partner eligible for their own IRC §199A deduction — that is, until their own taxable income climbs too high because an SSTB is not eligible for an IRC §199A deduction once the taxpayer's taxable income is over the top of the qualified business income deduction phaseout range.

Watch out for three-year lookback rule

The final regulations under IRC §199A provide that for IRC §199A purposes only, all former employees are presumed to still be employees. This includes partners that were once employees. As such, even partners can be subject to the presumption that they are still employees and are subject to the three-year lookback. However, the presumption can be overcome by an analysis of the facts and circumstances.

Family partnerships and trusts

High-income families have an additional incentive to use family partnerships or trusts because doing so can spread QBI among family members, some of whom may have lower incomes and benefit from the IRC §199A deduction.

Example of family partnership

Mary and Joe are in the trade or business of leasing property and net $500,000 per year in rental income from eight commercial buildings that they've owned for 30 years. The unadjusted basis of the property is $2 million, and they pay no wages. Because they are over the top of the phaseout threshold, their initial IRC §199A deduction is limited to $50,000 ($2 million × 2.5%).

They form an LLC and give each of their four children 10% interest in the entity. Each of the four adult children is married and has $100,000 of joint income, all from W-2s unrelated to the family LLC.

Mary and Joe's share of the net income is now $300,000 per year, and they are under the phaseout threshold. They get the full IRC §199A deduction of $60,000 (20% of ($500,000 × 60%)). Each of the children can also claim the full IRC §199A deduction of $10,000 (20% of ($500,000 × 10%)).

Mary and Joe cut their taxes by over $62,000. Each of the four children has a tax increase of about $9,000. The overall family reduction is about $26,000 ($62,000 – (4 × $9,000)).

And, there are likely some estate planning benefits as well.

The wages limitation and form of the entity

For non-SSTBs where taxable income is within or over the top of the phaseout range, the IRC §199A deduction depends on the wages limitation (the alternate calculation based on wages and depreciable assets).

All business entities can pay wages. But of the eligible business entities, only an S corporation owner can pay wages to *themself* and have those wages count in the wages limitation (sole proprietors and partners can't pay themselves wages, and guaranteed payments to partners don't count in the wages limitation).

Sole proprietors

Although Schedule C owners can't pay wages to themselves, they can pay wages to a spouse or child, as long as there is justification for doing so, and the amount of compensation is reasonable.

> ***Example of Schedule C owner paying wages***
>
> Melissa operates Mel's Diner as a sole proprietor and nets $550,000 per year. Hers and her husband's AGI is $600,000. Melissa's tentative IRC §199A deduction is $110,000 (20% of $550,000). The diner pays wages of $100,000 and has no UBIA. Melissa's IRC §199A deduction is limited to $50,000 (50% of wages).
>
> Melissa's husband, Matt, is an accountant who has his own Schedule C tax practice and nets $100,000 per year. Matt has been doing the accounting and taxes for Melissa's business without pay.
>
> Melissa hires Matt as an employee and pays him $40,000. The diner's net income is now $510,000 after paying Matt's wages, and total wages are now $140,000. Melissa's tentative IRC §199A deduction is now $102,000, but her deduction is limited to $70,000 (50% of $140,000).

S corporations

S corporation shareholder-employees possibly have the best deal in town for year-end tax planning. By paying wages to themselves at the end of the year, they can accomplish both a penalty savings and enjoy a tax-saving benefit at the same time.

First, by making a large wage payment at the end of the year, they can catch up on under withholding for the current year and avoid an underpayment of estimated tax penalty.

But more importantly, they can maximize their IRC §199A deduction.

> ***Example of S corporation wages***
>
> Penelope operates a sole proprietorship that is not an SSTB, and she has net income from her Schedule C of $500,000 (which also equals her taxable income). She pays no wages and has qualifying depreciable assets (UBIA) of $100,000.
>
> Because her taxable income is over the phaseout range and she pays no wages, her IRC §199A deduction is limited to $2,500 (2.5% × $100,000 depreciable assets).
>
> Penelope incorporates the business and makes an S election. She pays herself a salary of $200,000, leaving $300,000 flowing to her as ordinary income on Schedule K-1.
>
> Her IRC §199A deduction is now $60,000, calculated as the lesser of:
>
> - 20% of QBI (20% × $300,000) = $60,000; or
> - The greater of:
>   - 50% of W-2 wages (50% × $200,000) = $100,000; or
>   - 25% of W-2 wages (25% × $200,000) + 2.5% of UBIA (2.5% × $100,000) = $52,500.

Example of maximizing the K-1/wage allocation

Assume from the previous example that Penelope's business has always been an S corporation and that it has $500,000 net income after paying Penelope's salary.

What is the optimal allocation of net income before salary between K-1 reportable net income and salary?

At the extremes

There is a set amount to allocate between her W-2 and her K-1: $500,000. So, if she goes from to one extreme or the other, this is the result:

- **If all income is allocated to W-2:** In this case, there is zero net income reflected on the K-1, so there is no QBI and no IRC §199A deduction; or

- **If all income is allocated to K-1:** In this case, there is QBI of $500,000. However, as she is over the phaseout range, she is dependent on the wages limitation to support the deduction. As she has no wages, there is no IRC §199A deduction.

Thinking this through

Keep in mind the following:

- You have a set amount to allocate ($500,000). So the more you allocate to one, the less you have left to allocate to the other;
- It is the lesser of the two that matters because the deduction is limited to the lesser of 20% of the K-1 amount or 50% of the wages limitation;
- So, you want to bring the lower amount up, but when you do that, you bring the greater amount down. Bring up the lower amount too much, and it becomes the higher amount; and
- So, you achieve the optimal number when the two are equal.

Are you ready for some algebra?

Therefore, the optimal number is achieved when:

20% of X = 50% of Y, where
X + Y = Z, where
X is the K-1 amount
Y is the wages amount
Z is the amount to be allocated

And the answer is…

Two-sevenths. When the shareholder is the only employee, the closer the shareholder's salary is to two-sevenths of the net income before salary, the closer you will be to maximizing the IRC §199A deduction. This means Penelope must pay herself a salary of $142,857, leaving $357,143 as passthrough K-1 income. Now, 20% of her passthrough income is $71,429, and 50% of her wages is $71,429. Her deduction is $71,429.

Caution

The reasonable compensation rules still apply.

IRC §199A AND THE PERSONAL SIDE

Leveraging other deductions with the IRC §199A deduction

It is often possible to leverage other deductions with the IRC §199A deduction to "double up" on the IRC §199A deduction.

This is most often true when:

- The taxpayer's IRC §199A deduction is limited by the taxable income limitation; or
- The taxpayer is within or over the phaseout range.

Taxable income limitation

When a taxpayer is limited by the IRC §199A taxable income limitation, additional income may benefit from the 20% qualified business income deduction even if the income itself is not qualified business income (QBI) (and not capital gains).

Example of taxable income limitation

Robin operates a Schedule C business that generates $200,000 of QBI. She files a joint return with her husband, Jay, who is unemployed. Their taxable income is $160,000.

They can claim an IRC §199A deduction of $32,000 (lesser of 20% of QBI or 20% of taxable income). If Jay gets a job and earns $40,000, they will have taxable income of $200,000. Their IRC §199A deduction will increase to $40,000. Effectively, they get a 20% deduction on Jay's income.

The reason is that their IRC §199A deduction is limited because their taxable income is less than their QBI before Jay starts working. Any additional income, other than capital gains, will increase their IRC §199A deduction until their taxable income equals their QBI.

Example of clever Roth conversion

Ralph is married and has a business with Schedule C income of $100,000. He is a realtor, so his business is not a specified service business. His standard deduction is $24,400.

Calculation of QBI:

Net Schedule C income	$100,000
Less: Self-employment tax deduction	(7,065)
Qualified business income	$ 92,935
Tentative IRC §199A deduction ($92,935 × 20%)	$ 18,587

However, the QBI deduction is limited to 20% of taxable income before the IRC §199A deduction (the taxable income limitation):

Taxable income	$100,000
Less: SE tax deduction	(7,065)
Less: Standard deduction	(24,400)
Taxable income before IRC §199A deduction	$ 68,535
$68,535 × 20%	$ 13,707

If Ralph does a Roth conversion during the tax year, then he can convert up to $24,400 ($92,935 QBI – $68,535 taxable income without regard to the Roth conversion) and receive a 20% deduction on his Roth conversion.

Ralph's IRC §199A deduction is limited because his taxable income is less than his QBI before the Roth conversion. Any additional income, other than capital gains, will increase his IRC §199A deduction until the point where his taxable income equals his QBI.

Within the phaseout range

When a taxpayer is within or over the phaseout range, reduced income or additional deductions can reduce the phaseout percentage, thereby increasing the deduction.

A good source of additional deductions for the self-employed is some form of retirement plan, but any business deductions will do.

Example of within the phaseout range

Dan operates a tax practice which is a specified service trade or business (SSTB). He reports $150,000 of QBI on his Schedule C and has taxable income of $200,000 before IRC §199A (so he is within the phaseout range for a single individual). He is 55 years old. If he makes a traditional IRA contribution of $7,000, it will:

- Give him a $7,000 deduction for the contribution; and
- Reduce his phaseout percentage from 35.80% to 21.80% ($7,000 ÷ $50,000 = 14%), thereby increasing the IRC §199A deduction from $19,260 to $23,460 ($4,200 increase).

He leverages his $7,000 IRA contribution to reduce taxable income by $11,200 ($7,000 + $4,200).

Even more aggressive

Assume that Dan opens a solo 401(k) and contributes $25,000. The larger retirement contribution drops his taxable income to $175,000 and QBI to $125,000. Dan now gets:

- A deduction of $25,000 for the 401(k) contribution;
- A phaseout percentage of zero (because his taxable income is below the §199A phaseout range); and
- An IRC §199A deduction of $25,000 ($125,000 × 20%).

The tax liability drops from $32,499 to $24,175, a tax savings of $8,324. This is a tax savings at a 33.3% rate ($8,324 tax savings on a $25,000 contribution).

Half of self-employment tax, self-employment health insurance, and qualified plan contributions, which are all above-the-line deductions, also reduce QBI. Therefore, Dan's retirement plan contributions here will reduce both his taxable income and his QBI.

However, a traditional IRA contribution does not reduce QBI.

Capital gains and losses

Remember that net capital gains are:

- Not included in taxable income for purposes of the IRC §199A taxable income limitation; and
- Included in taxable income for purposes of the IRC §199A phaseout.

Therefore, if the taxpayer is within the phaseout range and has net capital gains, harvesting losses can reduce the taxpayer's phaseout percentage and increase the IRC §199A deduction

Example of taking capital losses to increase IRC §199A deduction

Bill has QBI of $100,000 from a non-SSTB business and taxable income of $192,100 including $20,000 of net capital gains. His initial deduction is $20,000 (20% × $100,000). However, he is 20% into the phaseout range, so his deduction is reduced to $16,000.

If he sells stock at a $10,000 loss before year-end, he will reduce his taxable income to $182,100 and have no phaseout. He will get the full $20,000 deduction.

PREPARING FOR SUNSETTING TCJA PROVISIONS

The Tax Cuts and Jobs Act (TCJA) was passed into law on December 22, 2017, and contained more tax provision changes than any bill since the Tax Reform Act of 1986. Most of the TCJA's business provisions were permanent, while most of the provisions dealing with individual taxpayers are scheduled to sunset on December 31, 2025.

We have provided a quick reference chart summarizing the TCJA provisions expiring at the end of 2025 as well as a discussion of those provisions and how to plan ahead for them beginning after the chart. TCJA provisions that were permanent or have already been repealed (such as the TCJA's kiddie tax rule changes that were quicky repealed) are not discussed here.

Chart of TCJA Provisions Scheduled to Sunset on December 31, 2025		
Provision	**Description**	**Status**
Tax brackets	Pre TCJA tax brackets were: 10%, 15%, 25%, 28%, 33%, 35% and 39.6% TCJA tax brackets (2018–2025) are: 10%, 12%, 22%, 24%, 32%, 35% and 37% Additionally, taxpayers generally reach the next highest tax bracket at a higher taxable income point under the TCJA	Not extended
Personal exemption deduction	Suspended from 2018–2025	Not extended
Increased standard deduction	Nearly doubled in 2018 and then adjusted for inflation each year	Not extended
Capital gain breakpoints for 15% and 20% brackets	Prior to TCJA, taxpayers in the 10% and 15% tax brackets paid 0% long-term capital gains rate (LTCG). Taxpayers in the 39.6% tax bracket paid a 20% LTCG rate. All others paid a 15% LTCG rate For 2018–2025, the breakpoints for the LTCG brackets are based on a set taxable income amount (adjusted annually for inflation)	Not extended
COD income exclusion for discharges of student loans	COD exclusion for certain student loans. This provision was later expanded by the ARPA to encompass more student loans	Not extended
		(continued)

Chart of TCJA Provisions Scheduled to Sunset on December 31, 2025 (continued)		
Provision	**Description**	**Status**
Moving expense deduction and exclusion from income for moving expense reimbursements from an employer	Suspended from 2018–2025 for everyone except active-duty military (IRC §§132(g), 217(k))	Not extended
Itemized deduction phaseout	Suspended from 2018–2025 (IRC §68)	Not extended
State and local tax (SALT) itemized deduction limitation	Deduction limited to $10,000 ($5,000 for MFS) from 2018–2025 (IRC §164(b)(5))	Not extended
Personal casualty and theft loss limitation	Limited to Presidentially declared disasters only (IRC §165)	Not extended
Mortgage interest limitation	Schedule A deduction limited interest on the first $750,000 of acquisition debt only ($375,000 for MFS) from 2018–2025 (IRC §163(h)(3)) Suspends deduction for equity debt from 2018–2025	Not extended
Charitable contribution AGI threshold	Increased AGI limit from 50% to 60% for contributions to “50% charities” (IRC §170)	Not extended
Miscellaneous itemized deductions	All 2% miscellaneous itemized deductions are suspended from 2018–2025 (IRC §67(g))	Not extended
Increased AMT exemption and exemption phaseout	Increased AMT exemption amount and the AMT exemption phaseout threshold for 2018–2025 (IRC §55(d)(4))	Not extended
Increased Child Tax Credit	Credit increased from $1,000 to $2,000, included a provision for a $500 credit for qualifying relatives, and increased the phaseout limitation from 2018–2025 (IRC §24)	Not extended
Rollover of IRC §529 funds to ABLE accounts	Distribution of §529 funds tax-free and without penalty if the distribution is recontributed to an ABLE account within 60 days of the distribution and is made before January 1, 2026 (IRC §529(c)(7))	Not extended
Additional ABLE account contributions	In addition to the annual gift tax limit, designated ABLE account beneficiaries can contribute to their own ABLE account up to the lesser of: compensation included in the beneficiary’s gross income; or the prior-year’s poverty level for a one-person household, from 2018–2025	Not extended

(continued)

Chart of TCJA Provisions Scheduled to Sunset on December 31, 2025 (continued)		
Provision	**Description**	**Status**
ABLE account contributions and Saver's Credit	Contribution to an ABLE account by its designated beneficiary qualifies as a contribution for the Saver's Credit from 2018–2025 (IRC §25B(d)(1))	Not extended
Unified exclusion	Doubled unified exclusion from estate and gift tax (IRC §2010(c)(3))	Not extended
Meals provided for the convenience of the employer and as a *de minimis* fringe benefit	50% deduction is scheduled to be reduced to 0% after 2025 (IRC §274(o))	Not extended
Income exclusion for bicycle commuting benefits	The exclusion from income for bicycle commuting expenses is suspended from 2018–2025	Not extended
Excess business losses	Business losses of noncorporate taxpayers are limited. The disallowed losses must be carried forward as a net operating loss. TCJA provision applies to losses generated from 2018–2025, but CARES Act delayed the start of this provision as a COVID tax relief provision (IRC §461(l))	Extended through 2028 by the Inflation Reduction Act of 2022 (IRC §461(l)(1))
Qualified business income deduction	Provides a deduction of up to 20% for noncorporate taxpayers on qualified business income from 2018–2025 (IRC §199A)	Not extended
Capital gain deferral for Qualified Opportunity Zone investments	Permits taxpayers to defer capital gains that are reinvested within 180 days of the capital gain event. Deferred gains are taxable on December 31, 2026 (IRC §1400Z-2)	Not extended

TAX BRACKETS

For taxable years 2018 through 2025, the TCJA reduced the tax rates for all but the lowest earners and increased the taxable income at which each filing status reached the next tax bracket.

Tax brackets for 2026

Inflation-adjusted tax brackets for 2026 won't officially be released until the fall of 2025, but the brackets will once again be at 10%, 15%, 25%, 28%, 33%, 35% and 39.6%. (IRC §1(a))

Planning for increased tax rates

Accelerating income by pushing off deductions as 2026 approaches

Taxpayers can start planning ahead for increased rates by recognizing income in 2024 and 2025, if possible, while rates remain lower.

On the flip side, delaying deductions until 2026 when they will provide a greater impact is also beneficial to the extent that deductions are within the taxpayer's control. We will discuss this topic in more detail when we discuss some of the itemized deduction limitations imposed by the TCJA that will be going away in 2026.

Roth conversions

Taxpayers considering Roth conversions should do so in advance of 2026 to minimize the tax impact. Roth conversions are taxable events, so leveraging lower tax brackets is beneficial. Taxpayers shouldn't wait until 2025 to make one large Roth conversion because the large conversion can itself push the taxpayer into a higher bracket. Instead, spread the conversion over taxable years 2024, and 2025 to minimize the tax impact.

STANDARD DEDUCTION

The TCJA nearly doubled the standard deduction. Starting in 2026, the standard deduction will be reduced to its pre-TCJA levels, plus inflation from 2018. The 2026 inflation-adjusted figures won't be released until fall 2025, but because the TCJA nearly doubled the standard deduction, we can expect the 2026 standard deduction to be reduced roughly in half from wherever the 2025 figure ends up.

Planning ahead for the reduced standard deduction

The reduced standard will mean that many more taxpayers will once again itemize their deductions. With the multiple changes to itemized deductions also sunsetting (each of which are discussed below), it may be time to start reeducating clients on their allowable itemized deductions, such as the restoration of the 2% miscellaneous itemized deductions and the elimination of the $10,000 state and local tax deduction limitation

> ✐ **Practice Pointer**
>
> Plan ahead for your own increased workflow with more clients utilizing itemized deductions. It will take longer to prepare income tax returns, and your preparation fees should be increased to match.

DISCHARGED STUDENT LOANS

Under the TCJA, the COD income from a student loan discharged on account of death or total disability of the student is excluded from gross income, but only if the discharge of indebtedness occurs prior to January 1, 2026. (IRC §108(f)) The American Rescue Plan Act subsequently expanded this provision to include almost all student loan forgiveness but did not extend the provision beyond December 31, 2025Student loans discharged after this date will once again be includable in the student's gross income.

MOVING EXPENSE DEDUCTION

The TCJA eliminated the moving expense deduction as well as the exclusion from income for qualified moving expense reimbursements provided by an employer. The law retained the pre-TCJA deduction for moving expenses incurred by a member of the U.S. Armed Forces on active duty who moves pursuant to a military order. (IRC§§132(g), 217(k))

The above-the-line deduction will once again be available for all taxpayers after December 31, 2025.

ITEMIZED DEDUCTION PHASEOUT

The overall limitation on itemized deductions is suspended from 2018 through 2025. (IRC §68) Under the limitation, a taxpayer's itemized deductions were reduced by the lesser of:

- 3% of the excess AGI over the threshold amount; or
- 80% of the itemized deductions otherwise allowable.

Medical expenses, investment interest expenses, and casualty, theft, or wagering losses were exempt from this reduction. (IRC §68(c))

Starting in 2026, the overall limitation on itemized deductions will once again come into play for higher income taxpayers.

Planning for the itemized deduction phaseout

Taxpayers can plan ahead for the phaseout by once again trying to accelerate income into 2025 if possible. Doing so can help minimize the taxpayer's itemized deductions that will be limited in 2026.

Taxpayers probably should not try to accelerate itemized deductions in 2025 because deductions for state and local taxes, mortgage interest, and 2% miscellaneous itemized deductions that also sunset in 2025 means that taxpayers are still likely to receive a larger benefit by pushing such deductions into 2026, even if that means facing the itemized deduction phaseout.

STATE AND LOCAL TAX DEDUCTION

The itemized deduction for state and local taxes (SALT) is limited to $10,000 per year ($5,000 in the case of married taxpayers filing separate) for the aggregate of state and local income taxes, real property taxes, and personal property taxes from 2018–2025. (IRC §164(b)(5))

A taxpayer may make an election to deduct sales and use tax rather than income tax (also subject to the $10,000 limit). This is still available and popular in states with no state income tax.

Planning ahead for the SALT deduction limitation sunset

As we approach 2026, taxpayers should consider pushing off state estimated tax payments and property tax payments into 2026, if possible.

PERSONAL CASUALTY AND THEFT LOSSES

Personal casualty losses are suspended by the TCJA for taxable years 2018–2025, except in the case of a Presidentially declared disaster, which is a form of casualty loss. (IRC §165)

These losses will once again be deductible for all personal casualty and theft losses starting in 2026.

Mortgage interest limitation

Acquisition debt

The TCJA provides that for tax years 2018–2025, taxpayers can deduct interest on up to $750,000 of acquisition indebtedness ($375,000 for married taxpayers filing separate). (IRC §163(h)(3))

In the case of acquisition indebtedness incurred on or before December 15, 2017, the $1 million limitation ($500,000 for married taxpayers filing separate) is still applicable. This includes refinanced debt that was originally incurred on or before December 15, 2017.

A taxpayer who entered into a binding written contract before December 15, 2017, to close on the purchase of a principal residence before January 1, 2018, and who bought the residence before April 1, 2018, is treated as incurring acquisition debt before December 15, 2017. (IRC §163(h)(3)(F)(i)(IV))

Equity debt

The TCJA suspends the deduction for interest on home equity debt of up to $100,000, no matter when the debt was incurred. Effectively, interest on equity debt is nondeductible from January 1, 2018, through December 31, 2025.

Planning for increased mortgage interest deduction

Starting in 2026, taxpayers will once again be able to deduct interest of up to $1 million of acquisition debt, no matter when their original mortgage loan was incurred.

Likewise, the deduction for interest on the first $100,000 of equity debt will be restored. Under pre-TCJA law, when a taxpayer acquired a personal residence, they could deduct mortgage interest on $1.1 million in loans on the property. Of the total, $1 million was acquisition debt and the $100,000 was equity debt. The taxpayer deducted the interest on the entire loan (for regular tax purposes). Taxpayers can once again employ this strategy to deduct interest on up to $1.1 million of mortgage debt.

CHARITABLE CONTRIBUTION AGI THRESHOLD

The TCJA increased the AGI limit from 50% to 60% for charitable contributions to 50% charities made from 2018–2025. (IRC §170) the increase only applies to cash contributions. Any excess contributions may be carried forward for five years.

2% MISCELLANEOUS ITEMIZED DEDUCTIONS

All miscellaneous itemized deductions that were subject to the 2% floor were suspended under the TCJA from 2018–2025. (IRC §67(g)) This includes:

- Tax preparation fees (unless they can be allocated to Schedule C, E, or F);
- Unreimbursed employee business expenses, including:
  - Sales, travel, and entertainment expenses for outside sales people; and
  - Entertainment industry expenses, including agent, attorney, and publicist fees;
- Home office for employees;
- Union dues, out of pocket expenses, and uniforms, including:
  - Police and fire; and
  - Construction workers;
- Continuing education expenses;
- Investment advisor fees and/or asset management fees; and
- Attorney fees, among others.

Planning ahead for reinstatement of 2% miscellaneous itemized deductions

Even though the federal deduction for 2% miscellaneous itemized deductions is suspended until 2026, many states, such as California, still allow these deductions. Most tax professionals have continued collecting information pertaining to these deductions due to state tax deductions.

As 2025 draws near, taxpayers who have 2% miscellaneous itemized deductions can once again try to accelerate income into 2025 to benefit from lower tax rates, but also push off expenses into 2026 when they will once again be deductible. Additionally, by accelerating income into 2025, taxpayers will be able to reduce their AGI in 2026, which will reduce the nondeductible portion of their 2% miscellaneous itemized deductions.

Attorneys' fees

Taxpayers who receive legal judgments or settlements have been hit harder than almost all other taxpayers due to the suspension of 2% miscellaneous itemized deductions. This is because attorneys' fees, with few exceptions, are classified as 2% miscellaneous itemized deductions.

Taxpayers who are set to receive legal settlements or judgments the closer we get to December 31, 2025, should seek to push them off until 2026 if possible.

ALTERNATIVE MINIMUM TAX

The TCJA permanently repealed the corporate AMT but retained it for individuals. (IRC §55(d)(4)) However, both the AMT exemption amounts and related phaseout thresholds were increased by nearly 27% from 2018–2025. (IRC §55(d)(4))

Comment

With the reduction of the deduction for state and local taxes and the suspension of the deductions for home mortgage interest on equity indebtedness and 2% miscellaneous itemized deductions, plus the increase in the AMT exemption amount, far fewer taxpayers have been subject to the AMT during the TCJA years (2018–2025).

Starting in 2026, we can once again expect many more taxpayers to be subject to the AMT.

CHILD TAX CREDIT

The TCJA enhanced the Child Tax Credit from 2018–2025 by:

- Increasing the Child Tax Credit from $1,000 to $2,000 per qualifying child and making a portion of the credit refundable;
- Allowing a nonrefundable credit of $500 for qualifying dependents that are not qualifying children; and
- Increasing the phaseout threshold significantly so that more taxpayers can claim the credit. Under pre-TCJA law, the AGI threshold where the Child Tax Credit began to phase out was $110,000 for married taxpayers filing jointly ($75,000 for HOH and single filers, and $55,000 for MFS). During the TCJA period, the thresholds are $400,000 for MFJ and $200,000 for all others.
  (IRC §24)

> ***Comment***
>
> The Child Tax Credit was enhanced further for the 2021 tax year only as part of COVID-19 relief legislation.

Planning ahead for the reduced Child Tax Credit

Under the TCJA's Child Tax Credit provision, many high earners are able to claim a significant credit each year for their qualifying children. For example, a married couple with three children and AGI of $200,000 could claim an annual credit of $6,000 ($2,000 per qualifying child).

Without new legislation, that same married couple will not receive any Child Tax Credit. Taxpayers in this position will need to either adjust their withholding in 2026 by filing a new Form W-4 with their employer or adjust their estimated tax payments.

ABLE ACCOUNTS

The TCJA provided three new benefits for ABLE account owners and beneficiaries for 2018–2025

- The ability to distribute funds from a §529 college savings account tax-free and without penalty if the distribution is recontributed to an ABLE account within 60 days of the distribution. (IRC §529(c)(7)) The recontribution must be completed before January 1, 2026;
- Contributions by an ABLE account beneficiary to their own ABLE account qualified as a retirement contribution for purposes of the Saver's Credit (IRC §25B(d)(1)); and
- The ability for ABLE account beneficiaries to contribute to their own ABLE account up to the lesser of:
  - The account beneficiary's earned income; or
  - The prior-year's poverty level for a one-person household.

Planning ahead for ABLE account changes

Taxpayers with able accounts should be sure to engage in any §529 account-to-able account rollovers before January 1, 2026. taxpayers who pull money from a §529 account toward the end of 2025 and recontribute the funds into an able account within 60 days of the distribution, but after december 31, 2025, will be taxed on their §529 distribution.

UNIFIED EXCLUSION

Under the TCJA, beginning after December 31, 2017, the unified exclusion amount was doubled from $5 million (adjusted for inflation after 2011) to $10 million, which is also indexed for inflation. (IRC §2010(c)(3)) The 2025 exclusion amount is $13,990,000 million. (Rev. Proc. 2024-40)

The exclusion amount will revert back to $5 million (plus inflation from 2011) for taxpayers dying after December 31, 2025.

> ***Comment***
>
> Taxpayers can expect the $5 million inflation-adjusted exclusion amount to be roughly one-half of the 2025 unified exclusion, which is just shy of $14 million. As such, taxpayers can expect the 2026 unified exclusion to be about $7 million.

Planning for a reduced exclusion

Because the unified exclusion is scheduled to revert back to $5 million (plus inflation from 2011) after 2025, the IRS issued final regulations in 2019 to provide an anti-clawback rule so that individuals taking advantage of the increased gift and estate tax exclusion amounts currently in effect will not be adversely impacted when the exclusion amount is reduced. (IR-2019-189; Treas. Regs. §§20.2010-1, 20.2010-3; TD 9884)

The potential problem

The temporary increase in the unified estate exclusion amount contained in the TCJA generated questions about what will happen if individuals made gifts in excess of $5 million but die after 2025 when the exclusion amount is decreased.

For purposes of calculating estate tax at an individual's death, lifetime exclusion gifts are added back into the estate, and the estate tax is based on the total of the gifts plus any remaining assets.

> ***Example of taxable estate***
>
> Andy made lifetime gifts of $10 million to his children, filed gift tax returns when required, and applied $10 million of his exclusion amount to those gifts. As a result, no gift tax was paid on any of the transfers.
>
> At Andy's death in 2024, he had $4 million in assets remaining. His estate tax will be approximately $404,000.

Lifetime gifts	$11,000,000
Remaining assets at death	4,000,000
Taxable estate	15,000,000
Exclusion amount	(13,990,000)
Subject to estate tax	1,010,000
Estate tax (40%)	$ 404,000

If the individual dies after the exclusion is reduced, under this basic calculation, the decreased exclusion amount could greatly increase the estate tax liability.

Example of death after exclusion reduced

Assume the facts are the same as the previous example, except that at Andy's death, the lifetime exclusion is $7 million ($5 million with an estimated adjustment for inflation). Without regard to the relief provided in the regulations, his estate tax would be $3.2 million, assuming a 40% tax rate at the time of his death.

Lifetime gifts	$11,000,000
Remaining assets	4,000,000
Taxable estate	15,000,000
Exclusion amount	(7,000,000)
Subject to estate tax	8,000,000
Estate tax (40%)	$ 3,200,000

The fix provided in the regulations

The final regulations issued in 2019 provide a special rule that allows the estate to compute its estate tax credit using the higher of the exclusion applicable to gifts at the time the gifts are made or the exclusion applicable on the date of death. (Treas. Regs. §20.2010-1(c))

Example of death after exclusion reduced, with regulations fix

Once again, assume the facts are the same as the previous example, except that Andy's estate applies the fix provided in the regulations. Remember, at Andy's death, he has $4 million in assets remaining and the lifetime exclusion is $7 million. His estate tax will be $1.6 million, assuming a 40% tax rate at the time of his death.

Lifetime gifts*	$11,000,000
Remaining assets	4,000,000
Taxable estate	15,000,000
Exclusion amount*	(11,000,000)
Subject to estate tax	4,000,000
Estate tax (40%)	$ 1,600,000

* Higher of the exclusion applicable to gifts at the time the gifts were made ($10 million) or the exclusion applicable at the time of death ($7 million)

Without the fix provided in the regulations, it's possible that taxpayers could end up with a tax liability greater than the assets remaining in their estate, as the following example illustrates.

Example of estate tax greater than assets

Jocelyn made a gift of $11 million to her daughter in 2018, when the exclusion amount was $11.18 million. She applied $11 million of her exclusion amount to the gift, and no gift tax was paid on the transfer.

Jocelyn dies in 2026, when the exclusion amount is reduced to $7 million, and she has $2 million of assets remaining in her estate. Without the fix provided in the regulations her estate tax would be approximately $2.4 million.

Lifetime gifts	$11,000,000
Remaining assets	2,000,000
Taxable estate	13,000,000
Exclusion amount	(7,000,000)
Subject to estate tax	6,000,000
Estate tax (40%)	$ 2,400,000

The result would be an estate tax liability that exceeds the assets remaining in the estate.

Applying the exclusion amount used during her lifetime reduces the estate tax lability to $800,000 (($13 million estate – $11 million exclusion) × 40%).

Proposed regulations limit 2019 relief

The IRS has issued a proposed regulation (REG-118913-21) that provides an exception to the gift and estate tax basic exclusion amount special anti-clawback rule. (TD 9884; Treas. Regs. §20.20101(c)) Unfortunately, the proposed regulations apply limitations that were not originally anticipated. This could create significant estate tax liabilities for some advanced gifting strategies.

Exceptions to the rule

It was clear the anti-clawback rule applies to completed gifts made during the donor's lifetime. However, the IRS stated at the time the 2019 final regulations were adopted that it would provide additional guidance that would provide exceptions to the anti-clawback rules where a donor makes a gift during their lifetime but still retains significant beneficial use, enjoyment, or control of the transferred property.

The 2022 proposed regulations officially create the IRS's exceptions to the anti-clawback rule. The proposed regulations provide that the anti-clawback rules do not apply to various transfers includable in the decedent's gross estate, including but not limited to:

- The following transfers includible in the decedent's gross estate, even if a charitable deduction or spousal deduction was claimed:
  - Near-death transfers (made within three years of the decedent's death) (IRC §2035);
  - Transfers with a retained life estate (IRC §2036);
  - Transfers taking effect at death or conditioned upon surviving the decedent (IRC §2037);
  - Revocable transfers (IRC §2038); and
  - Life insurance policies on the decedent's life over which the decedent retained certain incidents of ownership (IRC §2042);
- Transfers made by an enforceable promise (e.g., a promissory note) to the extent they remain unsatisfied at death; and
- Transfers of certain applicable retained interests in:
  - Corporations or partnerships (e.g., intrafamily equity interest transfers where the decedent still retains certain rights such as determining whether a distribution will be made); or
  - Certain trusts (e.g., grantor retained annuity trusts and qualified personal residence trusts).

The exceptions to the anti-clawback rule apply even if transfers described above are actually "completed" within 18 months of the donor's date of death, meaning that the decedent no longer had the use, enjoyment, or control of the property during the last 18 months of their life. In this case, the basic exclusion amount in effect on the decedent's date of death will apply.

Example of treatment of gift of promissory note

In 2022, Alberto made a completed gift of a promissory note of $9 million to his daughter Mikhaila, which was unpaid at the time of Alberto's death.

Alberto died after 2025. At the time of his death, the basic exclusion amount is $7 million. The exclusion applied on his estate tax return is limited to $7 million, even though at the time the promissory note was issued the exclusion amount was $12.06 million.

Exceptions to the exception

The anti-clawback rules will still apply, even to the type of transfers described above, to:

- Gifts that are not material, meaning that the taxable amount is 5% or less of the total amount of the transfer, valued as of the date of the transfer; and
- Transfers, relinquishments, or eliminations made within the last 18 months of the decedent's life if the transfer, relinquishment, or elimination occurred as a result of the termination of a durational period described in the original transfer by either the mere passage of time or the death of any person (e.g., the complete transfer will occur at the end of a five-year period or the death of the decedent's spouse).

Effective date

The proposed regulations, if adopted as final regulations, would be applicable to the estates of decedents dying on or after April 27, 2022. This means that if the basic exclusion amount is reduced prior to 2026 and these proposed regulations are adopted, then the reduced exclusion amount will apply to decedents who die after April 26, 2022.

BUSINESS MEALS

For amounts paid or incurred after December 31, 2017, the TCJA:

- Eliminated the deduction for any activities generally considered entertainment, amusement or recreation; and
- Limits the employer's deduction for meals provided for the convenience of the employer to 50% of expenses. This includes food and beverages provided to employees through an eating facility that meets requirements for *de minimis* fringes, and meals provided for the convenience of the employer. Such amounts incurred and paid after December 31, 2025, are not deductible at all.
  (IRC §274)

> ***Comment***
>
> The 100% deduction for business meals provided by a restaurant in 2021 and 2022 was a temporary COVID-19 relief provision and not part of the TCJA. That provision was temporary only and has not been extended beyond 2022.

Planning ahead for 0% meals deduction

For business meals paid or incurred after December 31, 2025, the 50% deduction for business meals is reduced to 0% for meals that are provided for the convenience of the employer and for meals that are provided as a *de minimis* fringe benefit. Other business meals remain deductible at a rate of 50%, even after December 31, 2025.

Businesses should begin distinguishing in their books and records the difference between meals that will still be deductible at a 50% rate from the two types of meals that won't be deductible at all. Doing so will make the tax professional's transition much easier.

QUALIFIED OPPORTUNITY ZONES

The Qualified Opportunity Zone Program was enacted as part of the TCJA and became effective immediately upon enactment of the TCJA (December 22, 2017). Investors in Qualified Opportunity Funds (QOFs) that invest in Qualified Opportunity Zone assets are eligible for significant tax incentives, but the incentives only apply to capital gains realized on or before December 31, 2026.

> ***Comment***
>
> All of the other TCJA provisions discussed here expire at the end of 2025. The QOZ capital gain deferral provision expires one year later, on December 31, 2026.

The incentives are only available if the investor invests in a QOF (either directly or by purchasing an interest from another investor). (Prop. Treas. Regs. §1.1400Z2(a)-1(b)(9)(iii)) The incentives are not available if the investor invests directly in the Qualified Opportunity Zone assets.

Summary of tax incentives

The TCJA adds three tax incentives to encourage investment in Qualified Opportunity Zones:

- Taxpayers may elect to defer all or a portion of their capital gain from pre-2027 sales of assets until December 31, 2026, at the latest;
- A permanent exclusion of a portion of the deferred gain as long as the property is held for at least five years (IRC §1400Z-2(b)); and
- Permanent exclusion of any postacquisition gains in QOFs held for at least 10 years. (IRC §1400Z-2(c))

The second item on this list was only available through 2021 because the permanent exclusion required a taxpayer to hold their QOF investment for at least five years before January 1, 2027.

The first item on this list has diminishing benefits the closer we get to December 31, 2026. This is because taxpayers who reinvest capital gains in a QOF can elect to defer them only until December 31, 2026. So, a taxpayer who reinvested capital gains in a QOF in 2018 and held the investment can benefit from eight years of gain deferral. However, a taxpayer who reinvests their capital gains into a QOF in 2025 will only benefit from a one-year gain deferral.

Despite the loss and diminished benefit of two of the three items on this list, investing in a QOF can still be very beneficial. Any capital gains generated on or before December 31, 2026, and reinvested in a QOF within 180 days will still benefit from a permanent exclusion from their gross income if they hold their QOF investment for at least 10 years.

Example of QOZ investment benefit

Joan sells $1 million worth of Apple stock for a $500,000 capital gain on May 12, 2026. Within 180 days, Joan invests her $500,000 gain in a QOF.

Joan does not benefit from the permanent exclusion under IRC §1400Z-2(b) because she will not have held her QOF investment for at least five years before December 31, 2026. Joan also will not benefit from the gain deferral because any deferred gains under the QOZ provisions are taxable as of December 31, 2026.

However, as long as Joan holds her QOF investment for at least 10 years, all of her gain on the investment will be excludable from her income.

Let's assume she holds her investment for 10 years and sells it for $1.2 million in 2036. Her realized gain is:

Sale price	$1,200,000
Purchase price	(500,000)
Realized gain	$ 700,000

The entire gain of $700,000 is excluded from Joan's gross income in 2036.

Planning ahead

Two of the biggest hurdles to investing in a QOF fund both relate to cash flow needed to pay tax liabilities. This is because:

- If taxpayers tie up their gain in the QOF, then they need to have enough other cash to cover the federal tax liability in 2026. In the Joan example above, Joan sold her Apple investment for $1 million and invested her $500,000 gain in a QOF. She must use the remaining $500,000 sale proceeds to pay her federal and state income tax liabilities; and
- States, including California, don't conform to the QOZ rules, so state taxes are due when the capital gain is realized.

Taxpayers interested in investing in QOFs must generate the necessary capital gain to do so by December 31, 2026. So, a taxpayer who has a capital gain even on December 31, 2026, has until June 29, 2027 (180 days from December 31, 2026) to reinvest their capital gains in a QOF and benefit from this provision.

GROUP STUDY MATERIALS

A. Discussion Questions

1. What are the benefits and potential risks of a backdoor Roth IRA strategy for high-income earners?

2. What are the key considerations for making qualified charitable distributions (QCDs) from an IRA?

3. How do the rules for inherited retirement plans and IRAs affect designated beneficiaries' tax planning under the SECURE Act?

4. How can businesses strategically use depreciation to maximize tax savings under the current bonus depreciation rules?

5. How can taxpayers effectively plan for the sunset of TCJA provisions affecting individual tax rates and deductions?

6. How does the sunset of TCJA provisions impact estate and gift tax planning?

B. Suggested Answers to Discussion Questions

1. The backdoor Roth IRA strategy allows high-income earners, who are otherwise ineligible to contribute directly to a Roth IRA, to indirectly fund one. This is achieved by making a nondeductible contribution to a traditional IRA and converting it to a Roth IRA. Contributions grow tax-free, and distributions are tax-free in retirement. However, a significant risk arises from the IRA aggregation rule, which requires all non-Roth IRA balances to be included when calculating the taxable portion of the conversion. This can result in a larger-than-expected tax bill for individuals with substantial pre-existing IRA balances.

2. Qualified charitable distributions (QCDs) offer a tax-efficient way for taxpayers aged 70½ or older to satisfy their charitable giving goals while meeting required minimum distributions (RMDs). QCDs must be made directly from the IRA trustee to a qualified charity and are excluded from the taxpayer's taxable income. The maximum QCD amount is $105,000 for 2024. It is essential to ensure that checks written for QCDs are cleared by December 31 to count for the current tax year. However, QCDs cannot be directed to donor-advised funds or private foundations, limiting their flexibility.

3. Designated beneficiaries are generally individuals and "see-through" trusts that are not: surviving spouses, minor children of the decedent, beneficiaries who are not more than 10 years younger than the decedent, disabled beneficiaries, and those who are chronically ill.

   The SECURE Act mandates that designated beneficiaries who inherited retirement plans and IRAs from decedents who died after 2019 must distribute the entire account balance within 10 years. If the decedent had begun taking required minimum distributions (RMDs), beneficiaries must also start taking annual RMDs beginning in 2025.

   Beneficiaries should consider evenly spreading these distributions across the 10 years to avoid large tax liabilities in the later years, especially if their own income levels increase during this period.

4. Businesses can maximize tax savings by strategically leveraging bonus depreciation, which stands at 60% in 2024 but will drop to 40% in 2025. By purchasing qualifying property before the end of 2024, taxpayers can take advantage of the higher deduction rate. Additionally, IRC §179 expensing offers flexibility, as it allows deductions to be taken on an asset-by-asset basis, unlike bonus depreciation, which applies automatically to entire property classes. Combining these two methods enables businesses to tailor their depreciation strategy to maximize immediate tax benefits.

5. To prepare for the sunset of TCJA provisions at the end of 2025, taxpayers should consider accelerating income into 2024 and 2025 to benefit from the current lower tax rates. Conversely, deductions should be deferred until 2026 when higher tax rates will increase their value and when previously eliminated deductions, such as 2% miscellaneous itemized deductions and state and local tax (SALT) deductions, will be reinstated. Roth conversions can also be strategically spread across the remaining years before 2026 to take advantage of the lower brackets, minimizing the tax impact.

6. With the TCJA's unified exclusion amount set to decrease from $13.99 million in 2025 to approximately $7 million in 2026, taxpayers should consider making significant gifts before the end of 2025 to lock in the higher exclusion amount. The IRS's anti-clawback rule ensures that gifts made under the higher exclusion are not subject to retroactive estate taxes. This provides an opportunity for taxpayers to transfer wealth tax-efficiently and reduce their future taxable estates.

GLOSSARY OF KEY TERMS

AGI—Adjusted Gross Income

AMT—Alternative Minimum Tax

CDP hearing—Collection Due Process Hearing

FBAR—Foreign Bank Account Report

IRA—Individual Retirement Account

NATP—National Association of Tax Professionals

QBI—Qualified Business Income

QCD—Qualified Charitable Contribution

QOF—Qualified Opportunity Funds

RMD—Required Minimum Distribution

SALT—State and Local Tax

SSTB—Specified Service Trades or Business

TCJA—Tax Cuts and Jobs Act

CPE Network®

Tax Report

Volume 37, Issue 11 **December 2024**

Choose the best response and record your answer in the space provided on the answer sheet.

1. According to Ian Redpath, what is the main concern of the National Association of Tax Professionals (NATP) regarding TurboTax's ad campaign?

   A. TurboTax offering free tax services
   B. TurboTax encouraging taxpayers to leave their current tax professionals
   C. TurboTax using Meta Pixels for advertising
   D. TurboTax's price guarantee

2. According to Ian Redpath, what privacy issue is associated with Meta Pixels?

   A. Unauthorized access to tax preparers' login credentials
   B. Errors in processing tax returns through software
   C. Illegal sale of taxpayer data by tax preparers
   D. Disclosing taxpayer data without consent.

3. According to Ian Redpath, what key change does TD 10011 introduce for IRS sales of seized property?

   A. Allowing online sales of seized property
   B. Permitting IRS auctions only through certified dealers
   C. Updating property valuation methods
   D. Eliminating state filing fees for seized property sales

4. According to Ian Redpath, which one of the following court cases does ***not*** address the constitutionality of the Corporate Transparency Act?

   A. Firestone v. Yellen
   B. Iowaska Church v. Werfel
   C. Community Associations Institute v. Yellen
   D. Hotze v. Yellen

5. According to Ian Redpath, what is the purpose of the new IRS Form 15620?

   A. Filing an FBAR penalty appeal
   B. Obtaining an IP PIN for tax filing
   C. Electing 83(b) to include income of unvested property
   D. Reporting beneficial ownership information

Continued on next page

6. According to Mike Giangrande, which of the following is a key focus of short-term tax planning?

   A. The effect of retirement contributions on future decades
   B. Estate planning across generations
   C. Year-end tax moves and utilizing expiring provisions
   D. Real estate investment strategies

7. According to Mike Giangrande, what is the contribution deadline for a traditional 401(k) plan to count for the current tax year?

   A. December 31 of the current year
   B. April 15 of the following year
   C. October 15 of the following year
   D. The extended tax return deadline

8. According to Mike Giangrande, which of the following retirement plans allows contributions up to the extended filing deadline

   A. Traditional IRA
   B. Solo 401(k)
   C. Employer-sponsored 403(b)
   D. Roth IRA

9. According to Mike Giangrande, why might taxpayers be advised to diversify with taxable investment accounts?

   A. They provide a deduction for contributions
   B. Withdrawals are taxed as ordinary income
   C. Withdrawals may result in lower-taxed capital gains
   D. They replace the need for traditional IRAs

10. According to Mike Giangrande, what major advantage does a Roth SEP IRA provide?

   A. Immediate tax deductions for contributions
   B. Tax-free growth and no RMDs
   C. Higher contribution limits than traditional SEP IRAs
   D. Reduction of self-employment tax

Continued on next page

11. According to Mike Giangrande, what tax benefit does a qualified charitable distribution (QCD) offer?

    A. It provides a tax credit.
    B. It reduces taxable income while satisfying RMDs.
    C. It allows contributions to donor-advised funds.
    D. It increases the standard deduction amount.

12. According to Mike Giangrande, which statement about IRC §179 expensing and bonus depreciation is correct?

    A. IRC §179 expensing can create a net operating loss, unlike bonus depreciation.
    B. Bonus depreciation does not apply to used property, but IRC §179 does.
    C. Bonus depreciation must be actively elected, while IRC §179 is automatic.
    D. Bonus depreciation applies to entire property classes, while IRC §179 can apply to specific assets.

13. According to Mike Giangrande, what is the "golden ratio" for maximizing IRC §199A deductions for S Corporation owners

    A. 2/7 wages to 5/7 K-1 income
    B. 50% wages to 50% K-1 income
    C. 75% wages to 25% K-1 income
    D. There is no optimal ratio.

14. According to Mike Giangrande, which of the following tax provisions is ***not*** scheduled to sunset after 2025 under the TCJA?

    A. Increased standard deduction
    B. 2% miscellaneous itemized deductions suspension
    C. Corporate tax rate reduction
    D. Personal casualty and theft loss limitation

15. According to Mike Giangrande, what is one planning strategy for the sunsetting SALT deduction cap?

    A. Prepaying property taxes in 2025
    B. Increasing mortgage interest deductions in 2025
    C. Accelerating income into 2026
    D. Delaying state tax payments until 2026

CPE Network®
Tax Report
Volume 37, Issue 11 **December 2024**

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	Topic Relevance	Topic Content/ Coverage	Topic Timeliness	Video Quality	Audio Quality	Written Material
Experts' Forum	|_______|	|_______|	|_______|	|_______|	|_______|	|_______|
Tax Planning	|_______|	|_______|	|_______|	|_______|	|_______|	|_______|

Which segments of the December 2024 issue of **CPE Network® Tax Report** did you like the most, and why?

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Which segments of the December 2024 issue of **CPE Network® Tax Report** did you like the least, and why?

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What would you like to see included or changed in future issues of **CPE Network® Tax Report**?

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Are there any other ways in which we can improve **CPE Network® Tax Report**?

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How would you rate the effectiveness of the speakers in the December 2024 **CPE Network® Tax Report**? Rate each speaker on a scale of 1–5 (5=highest):

	Overall	**Knowledge of Topic**	**Presentation Skills**
Ian Redpath	|______|	|______|	|______|
Mike Giangrande	|______|	|______|	|______|

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Once Again, Thank You…
Your Input Can Have a Direct Influence on Future Issues!

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CPE Group Attendance Sheet

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Program Title: CPE Network Tax Report, December 2024 Date: __________

Name	**Email**	**Total Hrs**	**IRS PTIN ID (if applicable Tax only)**	**Sign In**	**Sign Out**

I certify that the above individuals viewed and were participants in the group discussion with this issue/segment of the CPE Network® newsletter, and earned the number of hours shown.

Instructor Name: ______________________________ Date: __________

E-mail address: ______________________________

License State and Number: ______________________________

CPLgrading@cerifi.com

CPE Network/Webinar Delivery Tracking Report

Course Title	
Course Date:	
Start Time:	
End Time:	
Moderator Name, Credentials, and Signature Attestation of Attendance:	
Delivery Method:	Group Internet Based
Total CPE Credit:	3.0
Instructions:	During the webinar, the moderator must verify student presence a minimum of 3 times per CPE hour. This is achieved via polling questions. Sponsors must have a report which documents the responses from each student. The timing of the polling questions should be random and not made known to students prior to delivery of the course. Record the polling question responses below. Refer to the CPL Network User Guide for more instructions. Partial credit will not be issued for students who do not respond to at least 3 polling questions per CPE hour.
Brief Description of Method of Polling	Example: Zoom: During this webinar, moderator asked students to raise their hands 3 times per CPE hour. The instructor then noted the hands that were raised in the columns below.

			First CPE Hour			CPE Hour 2			CPE Hour 3			FOR TR USE ONLY
First Name	**Last Name**	**Student Email**	**Poll 1**	**Poll 2**	**Poll 3**	**Poll 1**	**Poll 2**	**Poll 3**	**Poll 1**	**Poll 2**	**Poll 3**	**Certificate Issued?**

CHECKPOINT LEARNING NETWORK

CPE NETWORK®
USER GUIDE

REVISED December 31, 2023

Welcome to CPE Network!

CPE Network programs enable you to deliver training programs to those in your firm in a manageable way. You can choose how you want to deliver the training in a way that suits your firm's needs: in the classroom, virtual, or self-study. You must review and understand the requirements of each of these delivery methods before conducting your training to ensure you meet (and document) all the requirements.

This User Guide has the following sections:

- **"Group Live" Format:** The instructor and all the participants are gathered into a common area, such as a conference room or training room at a location of your choice.
- **"Group Internet Based" Format:** Deliver your training over the internet via Zoom, Teams, Webex, or other application that allows the instructor to present materials that all the participants can view at the same time.
- **"Self-Study" Format:** Each participant can take the self-study version of the CPE Network program on their own computers at a time and place of their convenience. No instructor is required for self-study.
- **Transitioning From DVDs:** For groups playing the video from the online platform, we suggest downloading the video from the Checkpoint Learning player to the desktop before projecting.
- **What Does It Mean to Be a CPE Sponsor?:** Should you decide to vary from any of the requirements in the 3 methods noted above (for example, provide less than 3 full CPE credits, alter subject areas, offer hybrid or variations to the methods described above), <u>Checkpoint Learning Network will not be the sponsor and will not issue certificates.</u> In this scenario, your firm will become the sponsor and must issue its own certificates of completion. This section outlines the sponsor's responsibilities that you must adhere to if you choose not to follow the requirements for the delivery methods.
- **Getting Help:** Refer to this section to get your questions answered.

IMPORTANT: This User Guide outlines in detail what is required for each of the 3 formats above. Additionally, because you will be delivering the training within your firm, you should review the Sponsor Responsibilities section as well. To get certificates of completion for your participants following your training, you must submit all the required documentation. (This is noted at the end of each section.) Checkpoint Learning Network will review your training documentation for completeness and adherence to all requirements. If all your materials are received and complete, certificates of completion will be issued for the participants attending your training. Failure to submit the required completed documentation will result in delays and/or denial of certificates.

IMPORTANT: If you vary from the instructions noted above, your firm will become the sponsor of the training event and you will have to create your own certificates of completions for your participants. In this case, you do not need to submit any documentation back to CeriFi, LLC.

If you have any questions on this documentation or requirements, refer to the "Getting Help" section at the end of this User Guide **BEFORE** you conduct your training.

We are happy that you chose CPE Network for your training solutions. Thank you for your business and HAPPY LEARNING!

Copyrighted Materials

“Group Live” Format

CPE Credit

All CPE Network products are developed and intended to be delivered as 3 CPE credits. You should allocate sufficient time in your delivery so that there is no less than 2.5 clock hours:

50 minutes per CPE credit TIMES 3 credits = 150 minutes = 2.5 clock hours

If you wish to have a break during your training session, you should increase the length of the training beyond 2.5 hours as necessary. For example, you may wish to schedule your training from 9 AM to 12 PM and provide a ½ hour break from 10:15 to 10:45.

***Effective November 1, 2018:** Checkpoint Learning CPE Network products ‘group live’ sessions must be delivered as 3 CPE credits and accredited to the field(s) of study as designated by Checkpoint Learning Network. Checkpoint Learning Network will not issue certificates for “group live” deliveries of less than 3 CPE credits (unless the course was delivered as 3 credits and there are partial credit exceptions (such as late arrivals and early departures). Therefore, if you decide to deliver the “group live” session with less than 3 CPE credits, your firm will be the sponsor as Checkpoint Learning Network will not issue certificates to your participants.

Advertising / Promotional Page

Create a promotion page (use the template after the executive summary of the transcript). You should circulate (e.g., email) to potential participants prior to training day. You will need to submit a copy of this page when you request certificates.

Monitoring Attendance

You must monitor individual participant attendance at “group live” programs to assign the correct number of CPE credits. A participant’s self-certification of attendance alone is not sufficient.

Use the **attendance sheet.** This lists the instructor(s) name and credentials, as well as the first and last name of each participant attending the seminar. The participant is expected to initial the sheet for their morning attendance and provide their signature for their afternoon attendance. If a participant arrives late, leaves early, or is a “no show,” the actual hours they attended should be documented on the sign-in sheet and will be reflected on the participant’s CPE certificate.

Real Time Instructor During Program Presentation

"Group live" programs must have a **qualified, real time instructor while the program is being presented.** Program participants must be able to interact with the instructor while the course is in progress (including the opportunity to ask questions and receive answers during the presentation).

Elements of Engagement

A "group live" program must include at least one element of engagement related to course content during each credit of CPE (for example, group discussion, polling questions, instructor-posed question with time for participant reflection, or use of a case study with different engagement elements throughout the program).

Make-Up Sessions

Individuals who are unable to attend the group study session may use the program materials for self-study online.

- If the emailed materials are used, the user should read the materials, watch the video, and answer the quizzer questions on the CPE Quizzer Answer Sheet. Send the answer sheet and course evaluation to the email address listed on the answer sheet and the CPE certificate will be mailed or emailed to the user. Detailed instructions are provided on Network Program Self-Study Options.
- If the online materials are used, the user should log on to her/his individual Checkpoint Learning account to read the materials, watch the interviews, and answer the quizzer questions. The user will be able to print her/his/their CPE certificate upon completion of the quizzer. (If you need help setting up individual user accounts, please contact your firm administrator or customer service.)

Awarding CPE Certificates

The CPE certificate is the participant's record of attendance and is awarded by Checkpoint Learning Network after the "group live" documentation is received (and providing the course is delivered as 3 CPE credits). The certificate of completion will reflect the credit hours earned by the individual, with special calculation of credits for those who arrived late or left early.

Subscriber Survey Evaluation Forms

Use the evaluation form. You must include a means for evaluating quality. At the conclusion of the “group live” session, evaluations should be distributed and any that are completed are collected from participants. Those evaluations that are completed by participants should be returned to Checkpoint Learning Network along with the other course materials. While it is required that you circulate the evaluation form to all participants, it is NOT required that the participants fill it out. A preprinted evaluation form is included in the transcript each month for your convenience.

Retention of Records

Regardless of whether Checkpoint Learning Network is the sponsor for the “group live” session, it is required that the firm hosting the “group live” session retain the following information for a period of five years from the date the program is completed unless state law dictates otherwise:

- Record of participation (Group Study Attendance sheets; indicating any late arrivals and/or early departures)
- Copy of the program materials
- Timed agenda with topics covered and elements of engagement used
- Date and location of course presentation
- Number of CPE credits and field of study breakdown earned by participants
- Instructor name and credentials
- Results of program evaluations.

Finding the Transcript

Note: DVDs no longer ship with this product effective 3/1/2023.

When the DVD is inserted into a DVD drive, the video will immediately begin to play and the menu screen will pop up, taking the entire screen. Hitting the Esc key should minimize it to a smaller window. To locate the pdf file of the transcript either to save or email to others, go to the start button on the computer. In My Computer, open the drive with the DVD. The Adobe Acrobat files are the transcript files. If you do not currently have Adobe Acrobat Reader (Mac versions of the reader are also available), a free version of the reader may be downloaded at:

- https://get.adobe.com/reader/

The entire transcript is also available as a pdf in the Checkpoint Learning player in the resource toolbox at the top of the screen, or via the link in the email sent to administrators.

Requesting Participant CPE Certificates

When delivered as 3 CPE credits, documentation of your "group live" session should be sent to Checkpoint Learning Network by the following means:

Email: CPLgrading@cerifi.com

When sending your package to CeriFi, you must include ALL of the following items:

Form Name	**Included?**	**Notes**
Advertising / Promotional Page		Complete this form and circulate to your audience before the training event.
Attendance Sheet		Use this form to track attendance during your training session.
Subscriber Survey Evaluation Form		Circulate the evaluation form at the end of your training session so that participants can review and comment on the training. Return to CeriFi any evaluations that were completed. You do not have to return an evaluation for every participant.

Incomplete submissions will be returned to you.

"Group Internet Based" Format

CPE Credit

All CPE Network products are developed and intended to be delivered as 3 CPE credits. You should allocate sufficient time in your delivery so that there is no less than 2.5 clock hours:

50 minutes per CPE credit TIMES 3 credits = 150 minutes = 2.5 clock hours

If you wish to have a break during your training session, you should increase the length of the training beyond 2.5 hours as necessary. For example, you may wish to schedule your training from 9 AM to 12 PM and provide a ½ hour break from 10:15 to 10:45.

***Effective November 1, 2018:** Checkpoint Learning CPE Network products ‘group live’ sessions must be delivered as 3 CPE credits and accredited to the field(s) of study as designated by Checkpoint Learning Network. Checkpoint Learning Network will not issue certificates for “group live” deliveries of less than 3 CPE credits (unless the course was delivered as 3 credits and there are partial credit exceptions (such as late arrivals and early departures). Therefore, if you decide to deliver the “group live” session with less than 3 CPE credits, your firm will be the sponsor as Checkpoint Learning Network will not issue certificates to your participants.

Advertising / Promotional Page

Create a promotion page (use the template following the executive summary in the transcript). You should circulate (e.g., email) to potential participants prior to training day. You will need to submit a copy of this page when you request certificates.

Monitoring Attendance in a Webinar

You must monitor individual participant attendance at “group internet based” programs to assign the correct number of CPE credits. A participant’s self-certification of attendance alone is not sufficient.

Use the **Webinar Delivery Tracking Report.** This form lists the moderator(s) name and credentials, as well as the first and last name of each participant attending the seminar. During a webinar you must set up a monitoring mechanism (or polling mechanism) to periodically check the participants’ engagement throughout the delivery of the program. Participants’ two-way video should remain on during the entire presentation.

In order for CPE credit to be granted, you must confirm the presence of each participant **3 times per CPE hour and the participant must reply to the polling question**. Participants that respond to less than 3 polling questions in a CPE hour will not be granted CPE credit. For example, if a participant only replies to 2 of the 3 polling questions in the first CPE hour, credit for the first CPE hour will not be granted. (Refer to the Webinar Delivery Tracking Report for examples.)

Examples of polling questions:

1. You are using **Zoom** for your webinar. The moderator pauses approximately every 15 minutes and asks that participants confirm their attendance by using the “raise hands”

feature. Once the participants raise their hands, the moderator records the participants who have their hands up in the **webinar delivery tracking report** by putting a YES in the webinar delivery tracking report. After documenting in the spreadsheet, the instructor (or moderator) drops everyone's hands and continues the training.

2. You are using **Teams** for your webinar. The moderator will pause approximately every 15 minutes and ask that participants confirm their attendance by typing "Present" into the Teams chat box. The moderator records the participants who have entered "Present" into the chat box into the **webinar delivery tracking report**. After documenting in the spreadsheet, the instructor (or moderator) continues the training.
3. If you are using an application that has a way to automatically send out polling questions to the participants, you can use that application/mechanism. However, following the event, you should create a **webinar delivery tracking report** from your app's report.

Additional Notes on Monitoring Mechanisms:

1. The monitoring mechanism does not have to be "content specific." Rather, the intention is to ensure that the remote participants are present and paying attention to the training.
2. You should only give a minute or so for each participant to reply to the prompt. If, after a minute, a participant does not reply to the prompt, you should put a NO in the webinar delivery tracking report.
3. While this process may seem unwieldy at first, it is a required element that sponsors must adhere to. And after some practice, it should not cause any significant disruption to the training session.
4. **You must include the Webinar Delivery Tracking report with your course submission if you are requesting certificates of completion for a "group internet based" delivery format.**

Real Time Moderator During Program Presentation

"Group internet based" programs must have a **qualified, real time moderator while the program is being presented.** Program participants must be able to interact with the moderator while the course is in progress (including the opportunity to ask questions and receive answers during the presentation). This can be achieved via the webinar chat box, and/or by unmuting participants and allowing them to speak directly to the moderator.

Where individual participants log into a group live program they are required to enable two-way video to participate in a virtual face-to-face setting (with cameras on), elements of engagement are required (such as group discussion, polling questions, instructor posed questions with time for reflection, or a case study with engagement throughout the presentation) in order to award CPE credits to the participants. Participation in the two-way video conference must be monitored and documented by the instructor or attendance monitor in order to authenticate attendance for program duration. The participant-to-attendance monitor ratio must not exceed 25:1, unless there is a dedicated attendance monitor in which case the participant-to-attendance monitor ratio must not exceed 100:1.

Make-Up Sessions

Individuals who are unable to attend the "group internet based" session may use the program materials for self-study either in print or online.

- If emailed materials are used, the user should read the materials, watch the video, and answer the quizzer questions on the CPE Quizzer Answer Sheet. Send the answer sheet and course evaluation to the email address listed on the answer sheet and the CPE certificate will be mailed or emailed to the user. Detailed instructions are provided on Network Program Self-Study Options.
- If the online materials are used, the user should log on to her/his individual Checkpoint Learning account to read the materials, watch the interviews, and answer the quizzer questions. The user will be able to print her/his CPE certificate upon completion of the quizzer. (If you need help setting up individual user accounts, please contact your firm administrator or customer service.)

Awarding CPE Certificates

The CPE certificate is the participant's record of attendance and is awarded by Checkpoint Learning Network after the "group internet based" documentation is received (and providing the course is delivered as 3 CPE credits). The certificate of completion will reflect the credit hours earned by the individual, with special calculation of credits for those who may not have answered the required amount of polling questions.

Subscriber Survey Evaluation Forms

Use the evaluation form. You must include a means for evaluating quality. At the conclusion of the "group live" session, evaluations should be distributed and any that are completed are collected from participants. Those evaluations that are completed by participants should be returned to Checkpoint Learning Network along with the other course materials. While it is required that you circulate the evaluation form to all participants, it is NOT required that the participants fill it out. A preprinted evaluation form is included in the transcript each month for your convenience.

Retention of Records

Regardless of whether Checkpoint Learning Network is the sponsor for the “group internet based” session, it is required that the firm hosting the session retain the following information for a period of five years from the date the program is completed unless state law dictates otherwise:

- Record of participation (Webinar Delivery Tracking Report)
- Copy of the program materials
- Timed agenda with topics covered
- Date and location (which would be “virtual”) of course presentation
- Number of CPE credits and field of study breakdown earned by participants
- Instructor name and credentials
- Results of program evaluations

Finding the Transcript

Note: DVDs are no longer shipped effective 3/1/2023

When the DVD is inserted into a DVD drive, the video will immediately begin to play and the menu screen will pop up, taking the entire screen. Hitting the Esc key should minimize it to a smaller window. To locate the pdf file of the transcript either to save or email to others, go to the start button on the computer. In My Computer, open the drive with the DVD. It should look something like the screenshot below. The Adobe Acrobat files are the transcript files. If you do not currently have Adobe Acrobat Reader (Mac versions of the reader are also available), a free version of the reader may be downloaded at:

- https://get.adobe.com/reader/

Alternatively, for those without a DVD drive, the email sent to administrators each month has a link to the pdf for the newsletter. The email may be forwarded to participants who may download the materials or print them as needed.

Requesting Participant CPE Certificates

When delivered as 3 CPE credits, documentation of your "group internet based" session should be sent to Checkpoint Learning Network by the following means:

Email: CPLgrading@CeriFi.com

When sending your package to CeriFi, you must include ALL the following items:

Form Name	**Included?**	**Notes**
Advertising / Promotional Page		Complete this form and circulate to your audience before the training event.
Webinar Delivery Tracking Report		Use this form to track the attendance (i.e., polling questions) during your training webinar.
Evaluation Form		Circulate the evaluation form at the end of your training session so that participants can review and comment on the training. Return to CeriFi any evaluations that were completed. You do not have to return an evaluation for every participant.

Incomplete submissions will be returned to you.

“Self-Study” Format

If you are unable to attend the live group study session, we offer two options for you to complete your Network Report program.

Self-Study—Email

Follow these simple steps to use the printed transcript and video:

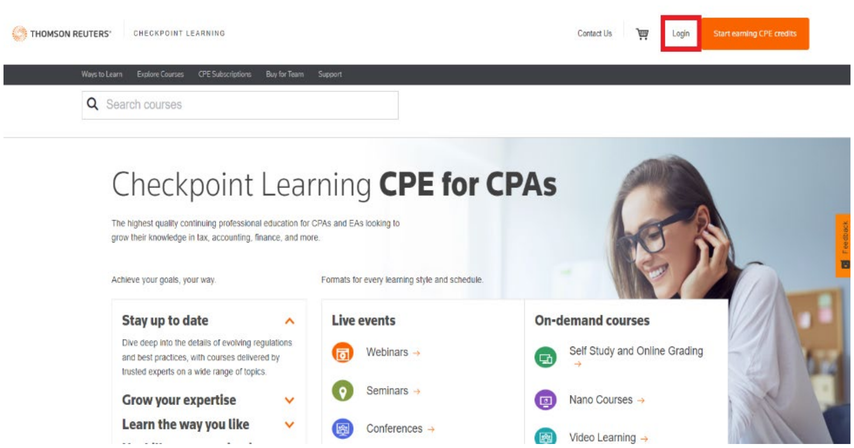
- Watch the video.
- Review the supplemental materials.
- Read the discussion problems and the suggested answers.
- Complete the quizzer by filling out the bubble sheet enclosed with the transcript package.
- Complete the survey. We welcome your feedback and suggestions for topics of interest to you.
- E-mail your completed quizzer and survey to:

CPLgrading@cerifi.com

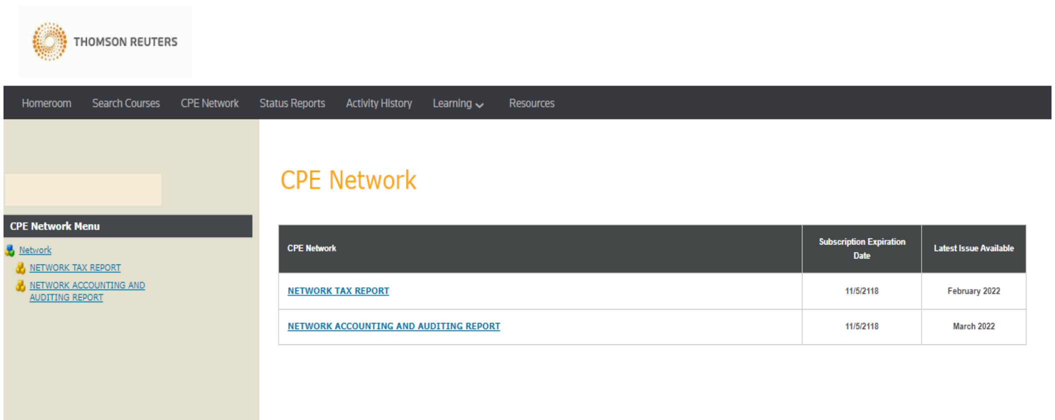
Self-Study—Online

Follow these simple steps to use the online program:

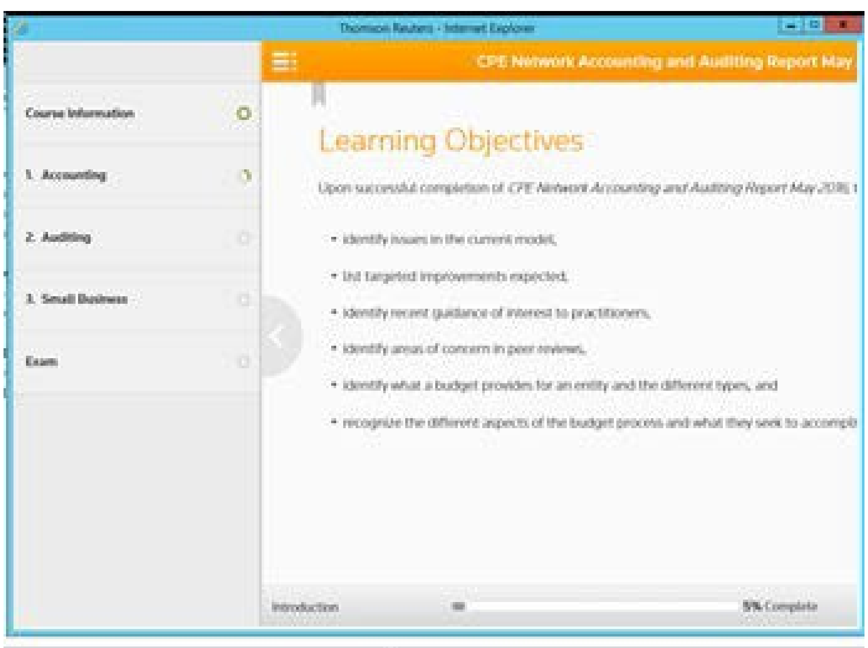
- Go to www.checkpointlearning.thomsonreuters.com .
- Log in using your username and password assigned by your firm’s administrator in the upper right-hand margin (“Login or Register”).



- In the **CPE Network** tab, select the desired Network Report and then the appropriate edition.

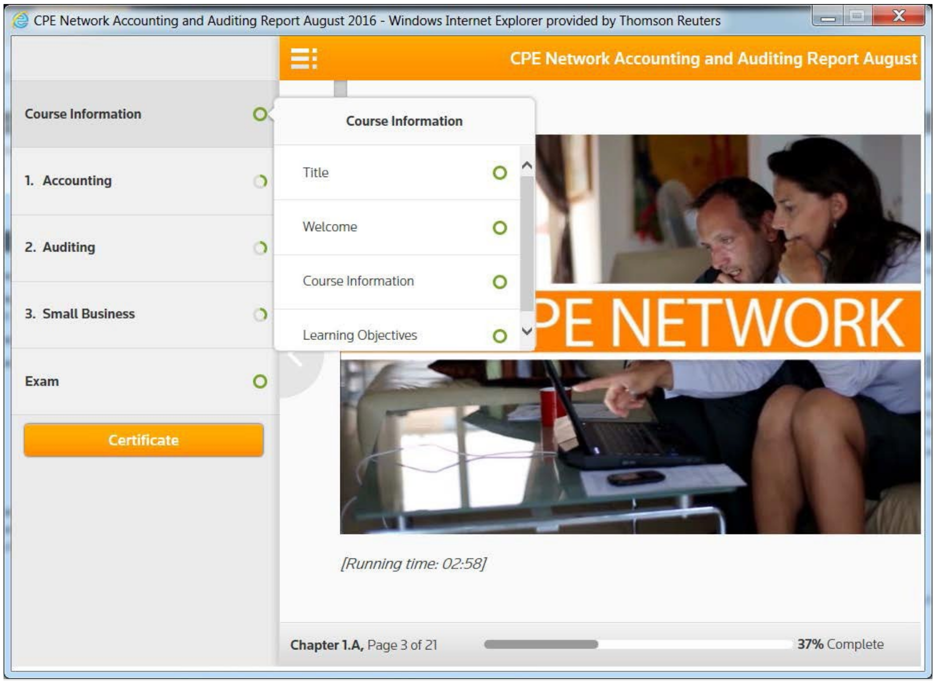


The Chapter Menu is in the gray bar at the left of your screen:

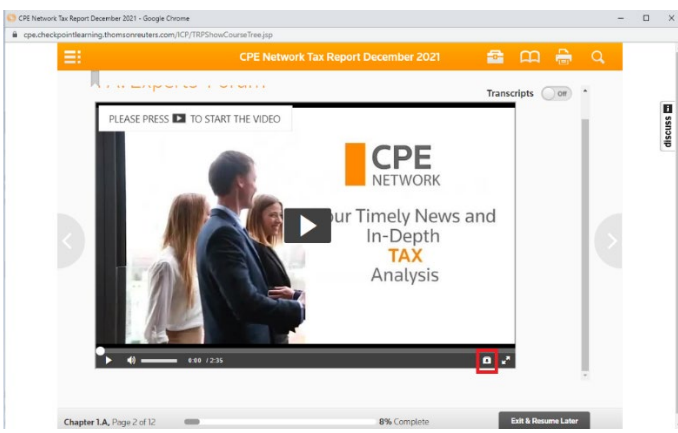


Click down to access the dropdown menu and move between the program Chapters.

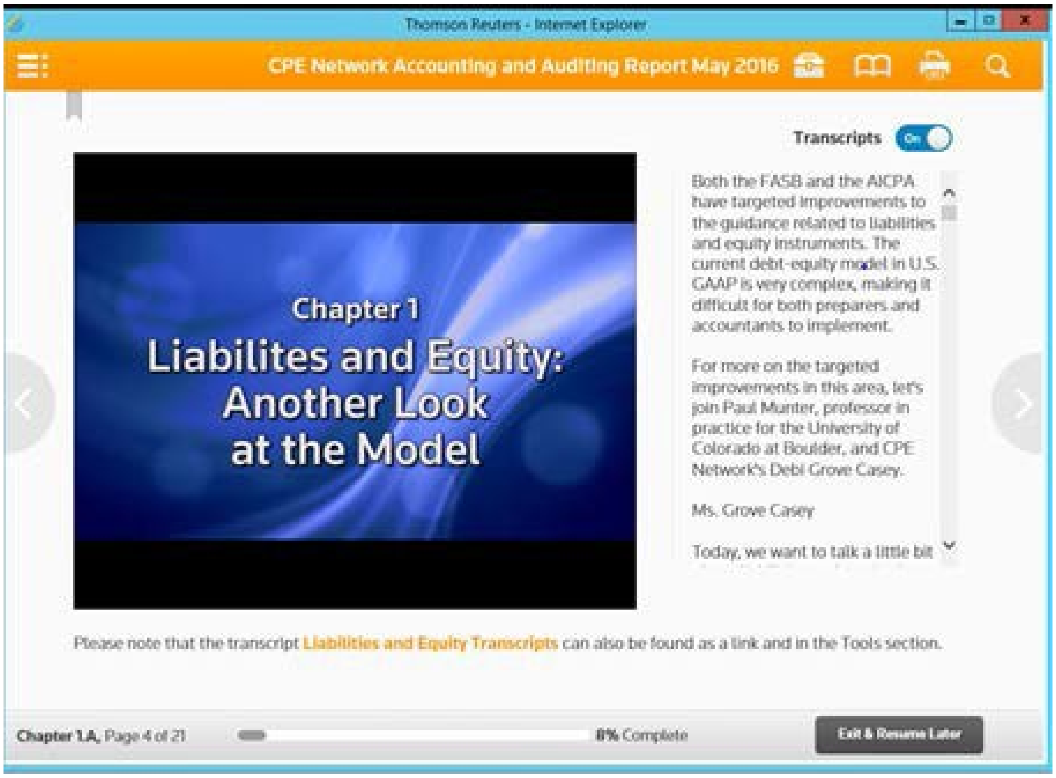
- **Course Information** is the course Overview, including information about the authors and the program learning objectives



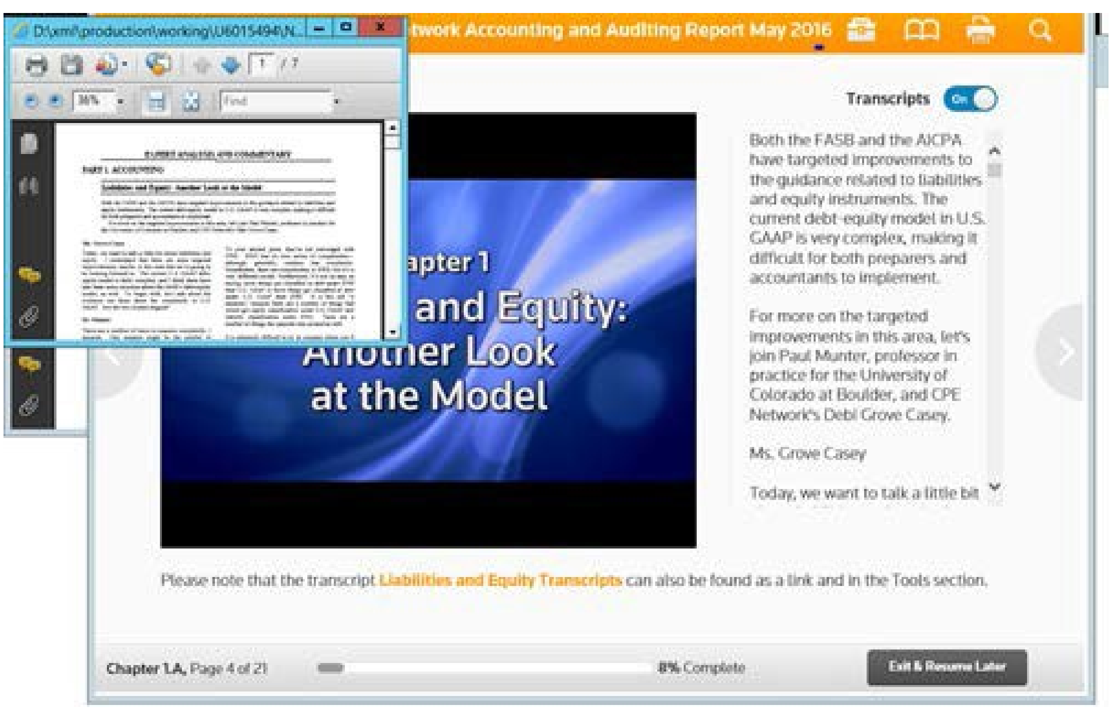
- **Each Chapter is self-contained.** Each chapter contains the executive summary and learning objectives for that segment, followed by the interview, the related supplemental materials, and then the discussion questions. This streamlined approach allows administrators and users to more easily access the related materials.



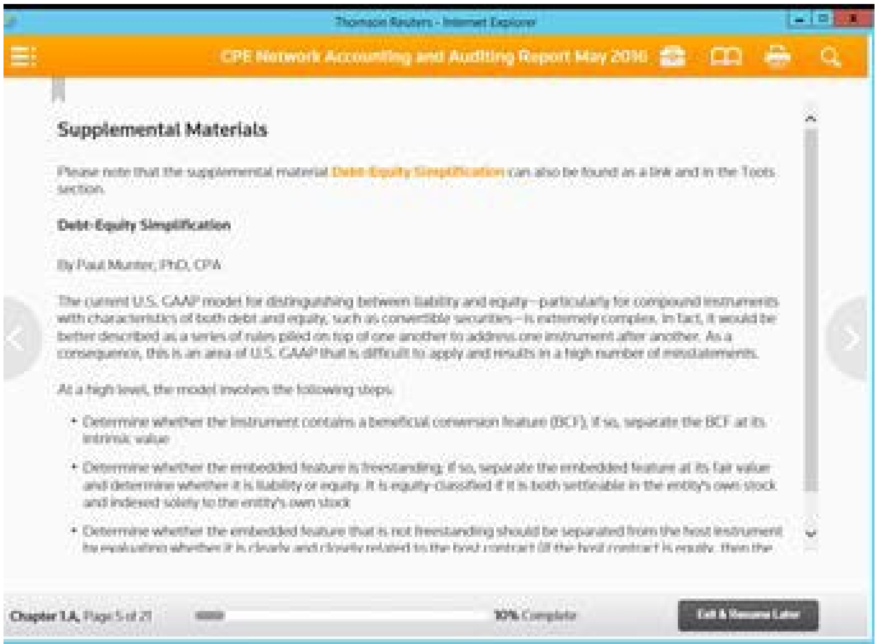
Video segments may be downloaded from the CPL player by clicking on the download button. Tip: you may need to scroll down to see the download button.

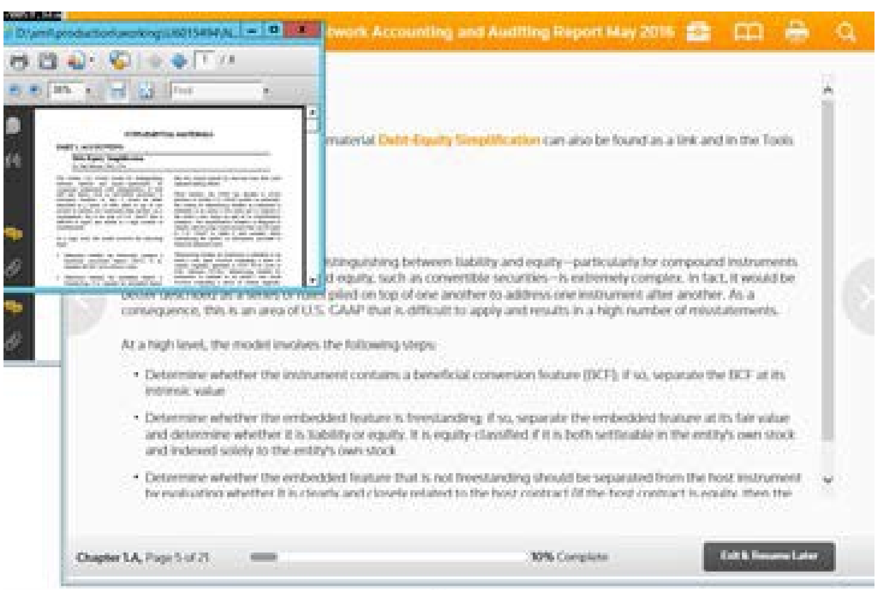


Transcripts for the interview segments can be viewed at the right side of the screen via a toggle button at the top labeled **Transcripts** or via the link to the pdf below the video (also available in the toolbox in the resources section). The pdf will appear in a separate pop-up window.



Click the arrow at the bottom of the video to play it, or click the arrow to the right side of the screen to advance to the supplemental material. As with the transcripts, the supplemental materials are also available via the toolbox and the link will pop up the pdf version in a separate window.





Continuing to click the arrow to the right side of the screen will bring the user to the Discussion p roblems related to the segment.

The Suggested Answers to the Discussion Problems follow the Discussion Problems.

CPE Network Accounting and Auditing Report July 2016

Suggested Answers to Discussion Problems

1. ASC 320 requires that, at acquisition, an enterprise classify debt and marketable equity securities into one of three categories:

    - Held-to-maturity
    - Trading
    - Available-for-sale

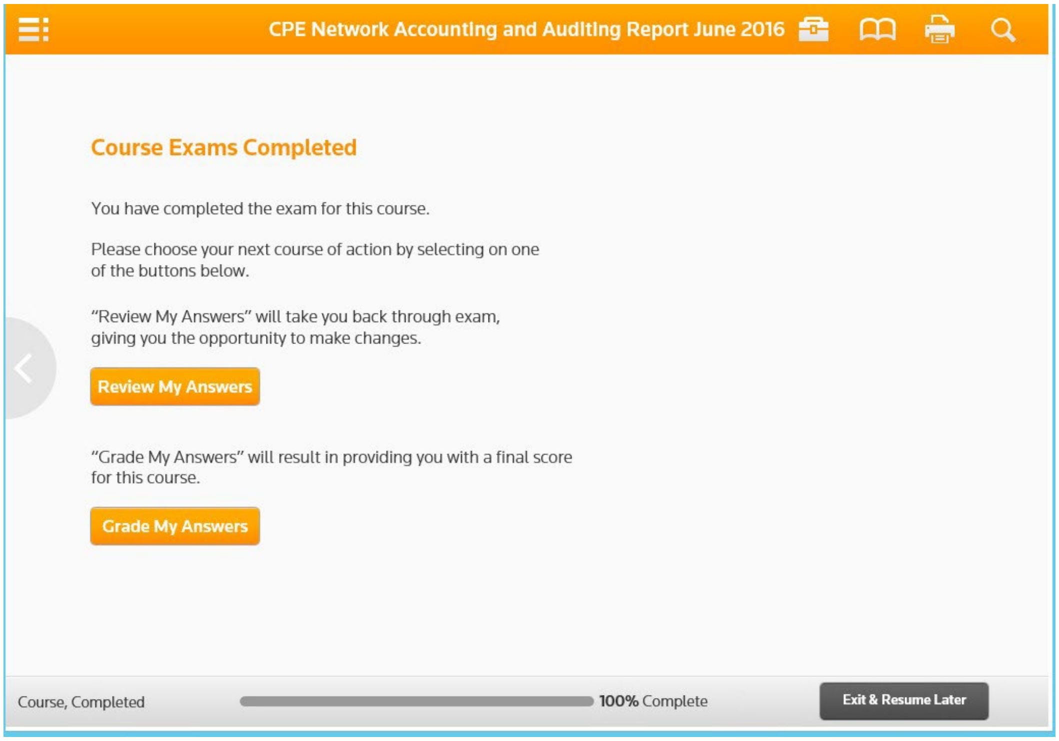
    An entity decides how to classify securities based on its intended holding period for each individual security, using the framework in ASC 320. In establishing its intent, an entity should consider relevant trends and experience, such as previous sales and transfers of securities. Classification decisions should be made at acquisition and, preferably, formally documented. It is not appropriate to use "hindsight" to classify securities transactions, perhaps by considering changes in value after acquisition.

2. The trading securities category includes securities that are bought and held principally for the purpose of selling them in the short term. Trading generally reflects active and frequent buying and selling, and trading securities are generally used with the objective of generating profits on short-term differences in price. "Short-term," in this context, is intended to be measured in hours and days, rather than in months or years, according to ASC 320. However, an entity is not precluded from classifying as trading a security it plans to hold for a longer period, as long as that designation occurs at acquisition.

3. Impairment is recognized in earnings when a decline in value has occurred that is deemed to be other than temporary, and the current fair value becomes the new cost basis for the security. An investment is considered to be impaired if the fair value of the investment is less than its cost basis. Cost includes adjustments made for

The **Exam** is accessed by clicking the last gray bar on the menu at the left of the screen or clicking through to it. Click the orange button to begin.

When you have completed the quizzer, click the button labeled **Grade or the Review button**.



- Click the button labeled **Certificate** to print your CPE certificate.
- The final quizzer grade is displayed and you may view the graded answers by clicking the button labeled **view graded answer**.

Additional Features Search

Checkpoint Learning offers powerful search options. Click the **magnifying glass** at the upper right of the screen to begin your search. Enter your choice in the **Search For:** box.

Search Results are displayed with the number of hits.

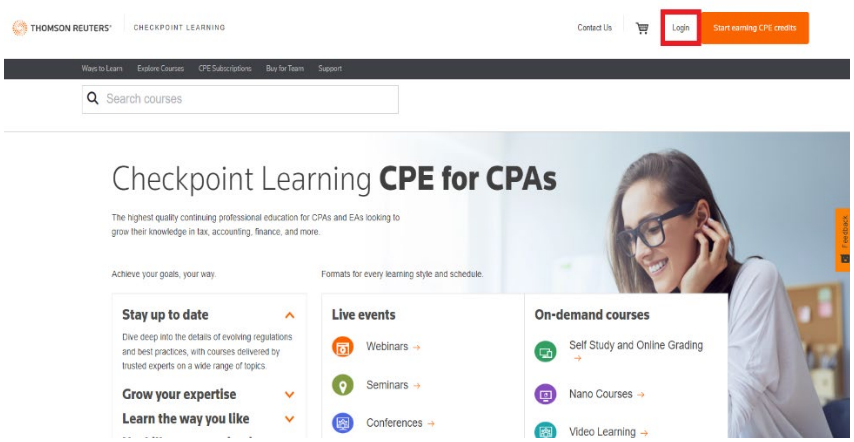
Print

To display the print menu, click the printer icon in the upper bar of your screen. You can print the entire course, the transcript, the glossary, all resources, or selected portions of the course. Click your choice and click the orange **Print**.

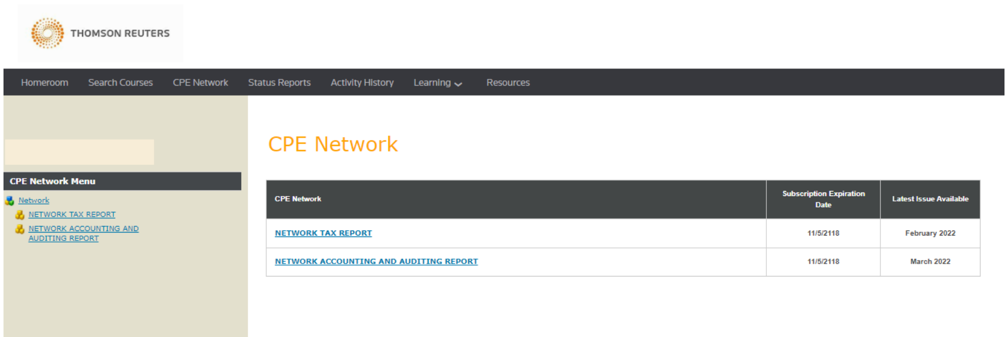
Transitioning From DVDs

Follow these simple steps to access the video and pdf for download from the online platform:

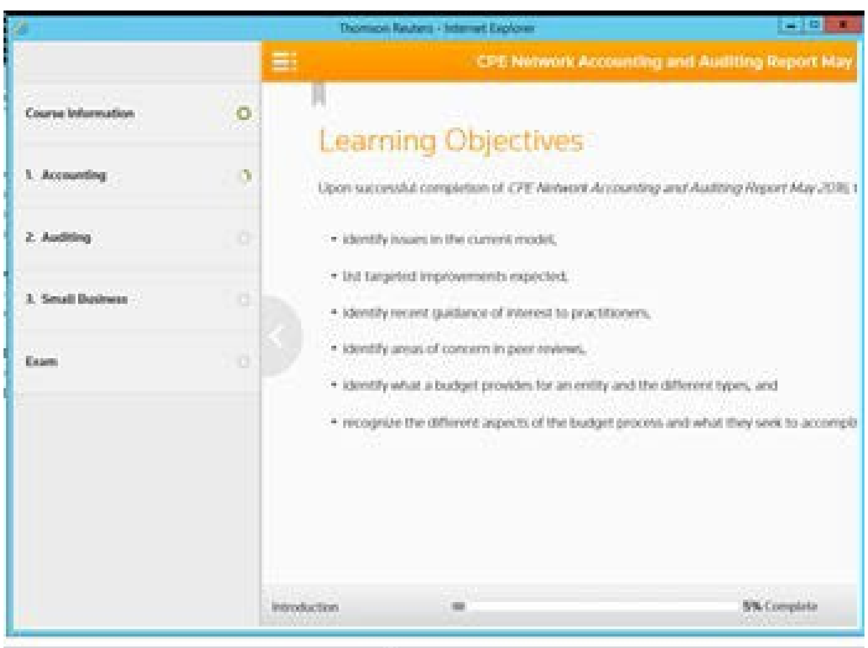
- Go to www.checkpointlearning.thomsonreuters.com .
- Log in using your username and password assigned by your firm's administrator in the upper right-hand margin ("Login").



- In the CPE **Network** tab, select the desired Network Report by clicking on the title, then select the appropriate edition.



The Chapter Menu is in the gray bar at the left of your screen:



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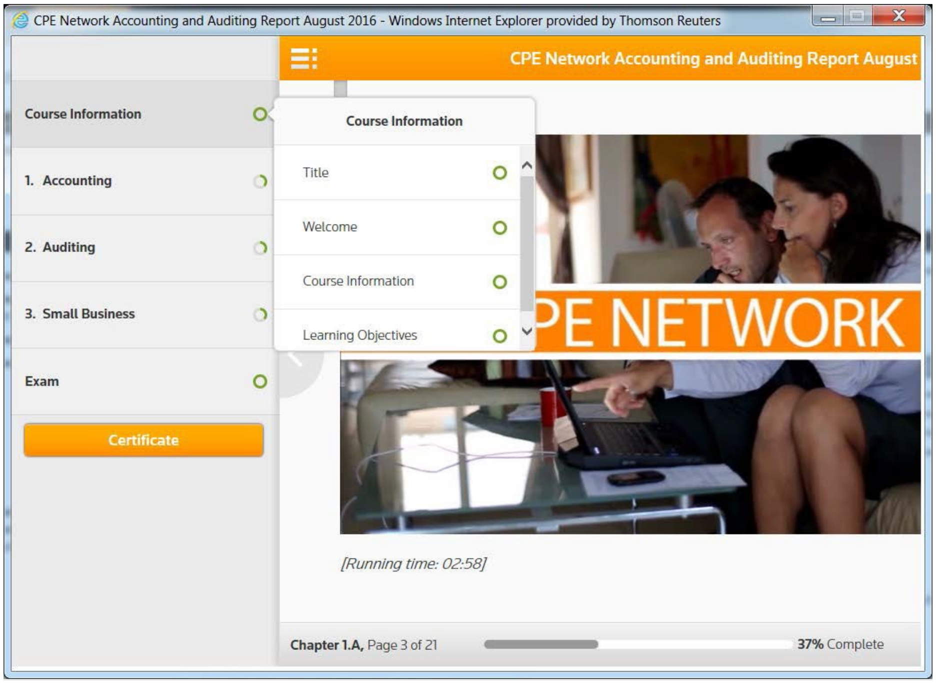
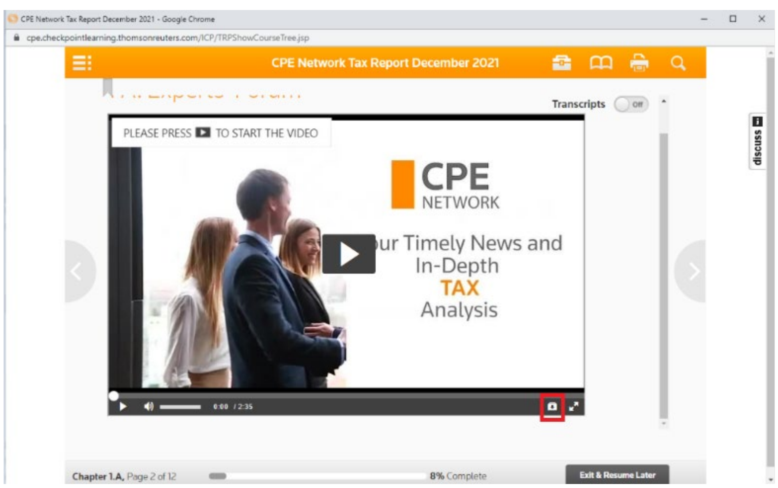


- Each Chapter is self-contained. Each chapter contains the executive summary and learning objectives for that segment, followed by the interview, the related supplemental materials, and then the discussion questions.



Video segments may be downloaded from the CPL player by clicking on the download button noted above. You may need to use the scroll bar to the right of the video to see the download button. **Tip: You may need to use the scroll bar to the right of the video to see the download button.**

PDFs may be downloaded from either the course toolbox in the upper right corner of the Checkpoint Learning screen or from the email sent to administrators with each release.

What Does It Mean to Be a CPE Sponsor?

If your organization chooses to vary from the instructions outlined in this User Guide, your firm will become the CPE Sponsor for this monthly series. The sponsor rules and requirements noted below are only highlights and reflect those of NASBA, the national body that sets guidance for development, presentation, and documentation for CPE programs. **For any specific questions about state sponsor requirements, please contact your state board. They are the final authority regarding CPE Sponsor requirements.** Generally, the following responsibilities are required of the sponsor:

- Arrange for a location for the presentation
- Advertise the course to your anticipated participants and disclose significant features of the program in advance
- Set the start time
- Establish participant sign-in procedures
- Coordinate audio-visual requirements with the facilitator
- Arrange appropriate breaks
- Have a real-time instructor during program presentation
- Ensure that the instructor delivers and documents elements of engagement
- Monitor participant attendance (make notations of late arrivals, early departures, and “no shows”)
- Solicit course evaluations from participants
- Award CPE credit and issue certificates of completion
- Retain records for five years

The following information includes instructions and generic forms to assist you in fulfilling your responsibilities as program sponsor.

CPE Sponsor Requirements

Determining CPE Credit Increments

Sponsored seminars are measured by program length, with one 50-minute period equal to one CPE credit. One-half CPE credit increments (equal to 25 minutes) are permitted after the first credit has been earned. Sponsors must monitor the program length and the participants’ attendance in order to award the appropriate number of CPE credits.

Program Presentation

CPE program sponsors must provide descriptive materials that enable CPAs to assess the appropriateness of learning activities. CPE program sponsors must make the following information available in advance:

- Learning objectives.
- Instructional delivery methods.
- Recommended CPE credit and recommended field of study.
- Prerequisites.
- Program level.
- Advance preparation.
- Program description.
- Course registration and, where applicable, attendance requirements.
- Refund policy for courses sold for a fee/cancellation policy.
- Complaint resolution policy.
- Official NASBA sponsor statement, if an approved NASBA sponsor (explaining final authority of acceptance of CPE credits**).**

Disclose Significant Features of Program in Advance

For potential participants to effectively plan their CPE, the program sponsor must disclose the significant features of the program in advance (e.g., through the use of brochures, website, electronic notices, invitations, direct mail, or other announcements). When CPE programs are offered in conjunction with non-educational activities, or when several CPE programs are offered concurrently, participants must receive an appropriate schedule of events indicating those components that are recommended for CPE credit. The CPE program sponsor's registration and attendance policies and procedures must be formalized, published, and made available to participants and include refund/cancellation policies as well as complaint resolution policies.

Monitor Attendance

While it is the participant's responsibility to report the appropriate number of credits earned, CPE program sponsors must maintain a process to monitor individual attendance at group programs to assign the correct number of CPE credits. A participant's self-certification of attendance alone is not sufficient. The sign-in sheet should list the names of each instructor and her/his credentials, as well as the name of each participant attending the seminar. The participant is expected to initial the sheet for their morning attendance and provide their signature for their afternoon attendance. If a participant leaves early, the hours they attended should be documented on the sign-in sheet and on the participant's CPE certificate.

Real Time Instructor During Program Presentation

"Group live" programs must have a qualified, real-time instructor while the program is being presented. Program participants must be able to interact with the real time instructor while the course is in progress (including the opportunity to ask questions and receive answers during the presentation).

Elements of Engagement

A "group live" program must include at least one element of engagement related to course content during each credit of CPE (for example, group discussion, polling questions, instructor-posed question with time for participant reflection, or use of a case study with different engagement elements throughout the program).

Awarding CPE Certificates

The CPE certificate is the participant's record of attendance and is awarded at the conclusion of the seminar. It should reflect the credit hours earned by the individual, with special calculation of credits for those who arrived late or left early.

CFP credit is available if the firm registers with the CFP board as a sponsor and meets the CFP board requirements. IRS credit is available only if the firm registers with the IRS as a sponsor and satisfies their requirements.

Seminar Quality Evaluations for Firm Sponsor

NASBA requires the seminar to include a means for evaluating quality. At the seminar conclusion, evaluations should be solicited from participants and retained by the sponsor for five years. The following statements are required on the evaluation and are used to determine whether:

1. Stated learning objectives were met.
2. Prerequisite requirements were appropriate (if any).
3. Program materials were accurate.
4. Program materials were relevant and contributed to the achievement of the learning objectives.
5. Time allotted to the learning activity was appropriate.
6. Individual instructors were effective.
7. Facilities and/or technological equipment were appropriate.
8. Handout or advance preparation materials were satisfactory.
9. Audio and video materials were effective.

You may use the enclosed preprinted evaluation forms for your convenience.

Retention of Records

The seminar sponsor is required to retain the following information for a period of five years from the date the program is completed unless state law dictates otherwise:

- Record of participation (the original sign-in sheets, now in an editable, electronic signable format)
- Copy of the program materials
- Timed agenda with topics covered and elements of engagement used
- Date and location of course presentation
- Number of CPE credits and field of study breakdown earned by participants
- Instructor name(s) and credentials
- Results of program evaluations

Appendix: Forms

Here are the forms noted above and how to get access to them.

Delivery Method	**Form Name**	**Location**	**Notes**
“Group Live” / “Group Internet Based”	Advertising / Promotional Page	Transcript	Complete this form and circulate to your audience before the training event.
“Group Live”	Attendance Sheet	Transcript	Use this form to track attendance during your training session.
“Group Internet Based”	Webinar Delivery Tracking Report	Transcript	Use this form to track the ‘polling questions’ which are required to monitor attendance during your webinar.
“Group Live” / “Group Internet Based”	Evaluation Form	Transcript	Circulate the evaluation form at the end of your training session so that participants can review and comment on the training.
Self Study	CPE Quizzer Answer Sheet	Transcript	Use this form to record your answers to the quiz.

Getting Help

Should you need support or assistance with your account, please see below:

Support Group	**Phone Number**	**Email Address**	**Typical Issues/Questions**
Technical Support	844.245.5970	Cplsupport@cerifi.com	• Browser-based • Certificate discrepancies • Accessing courses • Migration questions • Feed issues
Product Support	844.245.5970	Cplsupport@cerifi.com	• Functionality (how to use, where to find) • Content questions • Login Assistance
Customer Support	844.245.5970	Cplsupport@cerifi.com	• Billing • Existing orders • Cancellations • Webinars • Certificates