Supplement to J.K. Lasser's Small Business Taxes 2023

By Barbara Weltman

This year's book reflects the tax rules as they stood on December 1, 2022. But tax law is not static and new legislation, IRS pronouncements, and court decisions continue to tweak tax rules. They impact reporting on 2022 returns as well as tax planning for 2023 and beyond. This Supplements updates the book with these late-breaking developments.

The Consolidated Appropriations Act, 2023, which included SECURE Act 2.0, was signed into law on December 29, 2022. It sealed the rules for 2022 returns and created some rules to be taken into account for estimated taxes in 2023. But it also failed to extend some other "pandemic-specific" tax breaks.

The changes covered in this Supplement are listed according to the chapters in which the subject matter appears. I've attempted to include an answer to every notation in the book that said "see the Supplement." Be sure to note which changes listed in this Supplement apply to 2022 returns and which apply for purposes of figuring 2023 estimated taxes. For changes in 2023, only an overview is provided, with more details to come in the next edition to this book.

Introduction

Forms and schedules. When this edition was published, final versions of forms were not yet available. Find final versions of forms and schedules here.

Chapter 1—Business Organization

Schedules K-2 and K-3 for partnerships and S corporations. Partnerships and S corporations do not have to furnish these schedules to owners if certain conditions are met. The conditions are laid out in the instructions to Form 1065 for partnerships (there are 4 conditions here) and Form 1120-S for S corporations (there are 3 conditions here).

Form 2553. Despite a suggestion from the National Taxpayer Advocate that this form be attached with the return for a new corporation, the election to be taxed as an S corporation must be filed separately, and it must be timely submitted.

S corporation shareholder-employees not subject to self-employment tax. Proposals to treat these business owners as if they were partners in a partnership have not been adopted.

Chapter 2—Tax Year and Accounting Method

Change in accounting method. Form 3115 has been revised.

The gross income test for 2023 is $29 million average annual gross receipts in the 3 prior years (up from $27 million in 2022). Businesses that qualify for the first time under the gross receipts test to use the cash method of accounting, or for other purposes, should file for an automatic change in accounting method.

The IRS reminds businesses that had R&D expenses in 2022 that must be amortized over no less than 5 years (15 years for foreign activities) need to file for a change in accounting method. This is so if they previously opted to expense R&D costs. This may be treated as an automatic change in accounting method.

Chapter 4—Income or Loss from Business Operations

Payments in digital assets. The information return that will be used to report such payments will be Form 1099-DA. The form will probably be used for 2023 transactions reported in 2024, but this could be delayed. As yet, there is no draft form posted.

Excess business losses. Noncorporate taxpayers (e.g., owners of pass-through entities) are subject to a limit on the amount of losses claimed on the current return. An excess business loss is the amount by which the total deductions attributable to all of your trades or businesses exceed your total gross income and gains attributable to those trades or businesses plus a threshold amount adjusted for cost of living. For taxable years beginning in 2023, the threshold amounts are $289,000 (or $578,000 in the case of a joint return) (up from $270,000 and $540,000, respectively, in 2022).

Income earned abroad. The earned income exclusion for 2023 is capped at $120,000 (up from $112,000 in 2022).

Chapter 5—Capital Gains and Losses

Taxable income breakpoints for capital gain rates in 2023. Owners of pass-through entities who are individuals pay tax on their share of capital gains. The following table (an update to Table 5.1 in the book) shows the break points for capital gain rates for 2023; this Table does **not** apply to 2022 returns.

Rate	**Married filing jointly (and surviving spouse)**	**Head of household**	**Single**	**Married filing separately**
0%	Up to $89,250	Up to $59,750	Up to $44,625	Up to $44,625
15%	$89,251 - $553,850	$59,751 - $523,050	$44,625- $492,300	$44,625- $276,900
20%	Over $553,850	Over $523,050	Over $492,300	Over $276,900

Chapter 6—Gains and Losses from Sales of Business Property

QOZBs. There has been no development on whether cannabis businesses can be Qualified Opportunity Zone Businesses (QOZBs). The Consolidated Appropriations Act, 2023, did not contain any rule changes for cannabis businesses.

Chapter 7—Employee Compensation

Worker classification. The Department of Labor issued a proposed rule on classifying employees and independent contractors for purposes of the Fair Labor Standards Act. The proposed rule is designed to return to standards in place prior to a 2021 independent contractor rule. The DOL proposed rule does not directly impact tax treatment, but could influence the IRS to change its standards on worker classification.

Adoption assistance. For planning purposes, the dollar limit on the exclusion for employer assistance for adoption costs in $15,950 for 2023 (up from $14,890 in 2022).

Flexible spending accounts (FSAs) for medical expenses and dependent care expenses. For planning purposes, the maximum elective deferral for health FSAs in 2023 is $3,050 (up from $2,850 in 2022). The maximum carryover permitted from unused 2023 health FSAs to 2023 is capped at $610; the carryover applies only if the plan adopts it and does not use a grace period. Dependent care FSAs can allow a grace period but cannot have a carryover for unused 2023 amounts to 2024. For health FSAs or dependent care FSAs with a grace period, unused expenses from 2023 must be spent by March 15, 2024 (or within 21/2 months after the end of the 2023 plan year if a fiscal-year plan).

Employee use of company car. For planning purposes, in valuing employee use of a company car in 2023 or for purposes of reimbursements under accountable plans, the IRS standard mileage rate is 65.5¢ per mile, up from 62.5¢ per mile in the second half of 2022.

The fixed and variable rate allowance (FAVR) in 2022 is limited to vehicles with a fair market value not exceeding $60,800 for cars, trucks, and vans. The limit in 2022 was $56,100.

Car and truck values taken into account by employers using the cents-per-mile valuation rule or the fleet valuation rule for valuing personal use of a company vehicle in 2023 are capped at $60,800.

Qualified transportation fringe benefits. Employers cannot deduct these fringe benefits, but if they choose to provide the benefits or arrange for employees to pay for these costs on a pre-tax basis, employees can exclude up to $300 per month for free parking, transit passes, and van pooling for 2023 (up from $280 per month in 2022).

Frequent flyer miles. The IRS has not changes the rule that allows the personal use of frequent flyer miles generated by business flights to be a tax-free fringe benefit.

Employment-related tax credits. In 2023, small businesses may use up to $250,000 of a research credit as an offset to the employers' Medicare taxes (part of FICA). This is new and is in addition to the $250,000 offset to the employers' Social Security taxes (the same as in 2022). The total offset for 2023 is $500,000.

The Indian employment credit, which expired at the end of 2021, was not extended for 2022.

Personal credits because of employment. The enhanced rules for the dependent care credit that applied in 2021 do not apply in 2022 or 2023. Instead, the rules revert to 2020 rules.

Chapter 8—Travel, Meals, and Gift Expenses

Business travel per diem rates. The standard federal per diem rate set by the General Services Administration (GSA) for travel starting October 1, 2022, through September 30, 2023, covering lodging and meals and incidental expenses (M&IE) within the continental United States (CONUS) in most locations is $157 per day ($98 for lodging and $59 for M&IE). There are 316 locations that have a per diem rate exceeding the standard rate for all or part of the year. These rates can be found at the GSA.

The high-low substantiation rates set by the IRS for areas within CONUS for the period October 1, 2022, through September 30, 2023, are $297 for travel to high-cost localities and $204 for travel to all other areas within CONUS. Of these rates, the meal portion is $74 for high-cost areas and $64 for all other areas within CONUS. The list of high-cost areas has been changed (see Notice 2022-44 for details).

Meals. The deduction for business meals in 2023 is 50% of the cost. The 100% limit that applied for 2021 and 2022 expired.

Chapter 9—Car Expenses

Section 179 deduction and bonus depreciation. For 2023, the first-year expense allowance (Section 179 deduction) applies to equipment purchases (e.g., new vehicles) up to $1,160,000 (up from $1,080,000 in 2022). However, this dollar limit phases out dollar for dollar when purchases of Section 179 property for the year exceed $2,890,000. Thus, no expensing deduction can be claimed if equipment purchases for the year are $4,050,000 million or more.

Heavy SUVs are not subject to the annual dollar limits on depreciation, but the first-year expense deduction is limited to $38,900 in 2023 (up from $27,000 in 2022).

Standard mileage rate. The IRS announced the standard mileage rate, used in lieu of deducting the actual costs of business driving; for 2023 it is 65.5¢ per mile (up from 62.5¢ per mile for the second half of 2022).

Those who own their vehicles and use the standard mileage rate for 2022 must reduce the vehicle's basis by 28¢ per mile (up from 26¢).

Dollar limits on depreciation. The dollar limits on the deduction for depreciation of business vehicles placed in service in 2023 is:

- First year: $20,200 (or $12,200 if bonus depreciation is not used)
- Second year: $19,500
- Third year: $11,700
- Fourth and succeeding years: $6,960

If business use is more than 50% but not 100%, allocate the basis of the vehicle to apply the applicable depreciation rate and then apply the dollar limit.

Inclusion amounts. If the actual expense method is used to deduct the cost of business driving and the vehicle is leased, the total annual lease payment is deductible. But if the vehicle is first leased in 2023 and its value is more than $60,000, you must reduce the deduction for lease payments by an inclusion amount. The IRS announced these inclusion amounts in Rev. Proc. 2023-14. The inclusion amounts are very modest and do not seriously reduce the deduction for lease payments until you're dealing with pricey vehicles valued at $100,000 and up. Inclusion amounts for vehicles first leased in 2022 are in the book and apply to vehicles with a value over $56,000. Inclusion amounts for vehicles first leased in years prior to 2022 may be found in IRS Publication 463.

Credit for clean vehicles. The rules for the tax credit for clean vehicles—electric vehicles (EVs) or fuel cell vehicles—change dramatically for vehicles placed in service starting in 2023. The new rules for individuals include the following:

- The vehicle's manufacturer suggested retail price (MSRP) cannot exceed $80,000 for vans, sport utility vehicles and pickup trucks and $55,000 for other vehicles.
- There is a modified adjusted gross income limit for a purchase: $300,000 for joint filers, $225,000 for heads of households, and $150,000 for all other filers.
- The vehicle must be purchased from a dealer who reports certain required information at the time of the sale to you and to the IRS.
- The 200,000 manufacturer's vehicle limit no longer applies.

The final assembly requirement that went into effect on August 16, 2022, continues to apply. So, too, does the requirement that the basis of the property must be reduced by the credit and the portion of the credit related to business driving is part of the general business credit.

The form for claiming the clean vehicles credit is still Form 8938, *Qualified Plug-in Electric Drive Motor Vehicle Credit (Including Qualified Two-Wheeled Plug-in Electric Vehicles and New Clean Vehicles)*. Note that 2-wheeled plug-ins only qualify for a credit on a 2022 return if they were purchased in 2021 but placed in service in 2022.

Credit for previously-owned clean vehicles. There a new credit that individuals may claim for buying used clean vehicles (previously-owned electric or fuel cell vehicles) from a dealer and placed in service in 2023. The credit is 30% of the sale price up to a top credit of $4,000. However, the credit may only be claimed for a vehicle costing $25,000 or less that has a model year that is at least 2 years earlier than the calendar year of the purchase. There is also an MAGI limit of $150,000 for joint filers, $112,500 for heads of households, and $75,000 for singles.

The credit may not be claimed by a dependent. The credit is nonrefundable.

Credit for commercial clean vehicles. There is a new credit for a commercial clean vehicle bought and placed in service by a business in 2023. These are vehicles subject to depreciation and include mobile machinery used for farming, construction, manufacturing, mining, and other commercial activities. The credit is the lesser of $15% of the cost (or 30% if not powered by gas or diesel) or the incremental cost of the vehicle. The credit for 2023 is:

- $7,500 for vehicles weighing under 14,000 pounds
- $40,000 for vehicles weighing 14,000 pounds or more

The incremental cost of a qualified commercial clean vehicle is the excess of the purchase price of such vehicle over the price of a comparable vehicle powered by gas or diesel. The IRS reviewed the incremental cost for all street vehicles in calendar year 2023. The analysis shows that the incremental cost of all street vehicles, other than compact car plug-in electric hybrids, with a gross vehicle weight of less than 14,000 pounds is greater than $7,500 in calendar year 2023. The incremental cost won't limit the available credit amount for these street vehicles placed in service in calendar year 2023. For compact car plug-in electric hybrids for which the incremental cost was calculated to be less than $7,500, the IRS will accept the incremental cost published by the Department of Energy.

There is no limit on the number of credits per year, so if your business buys two commercial clean vehicles, it could mean a tax credit of up to $80,000. If a business replaces a fleet of vehicles, the credit is claimed for each eligible vehicle.

The depreciable basis of the vehicle or machine must be reduced by the amount of the credit.

The credit is nonrefundable and is part of the general business credit. Expect to see a new tax form for claiming this credit.

Chapter 10—Repairs, Maintenance, and Energy Improvements

Energy-efficient commercial buildings deduction. Beginning in 2023, the deduction is $2.50 to $5 per square foot, but no partial deduction is allowed. To maximize the deduction, you must meet prevailing wage and apprenticeship requirements. These requirements are laid out in Notice 2022-61.

To qualify for a deduction, property must be installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 25% beginning or more, in comparison to a reference building that meets the minimum requirements of the applicable reference standard using certain methods of calculation. The IRS has listed the applicable reference standards in Announcement 2023-01

Alternative fuel refueling property credit. For 2023, the credit for adding a charging station at a business location is 6% of depreciable property, up to a credit limit of $100,000. Alternative fuel refueling property projects must meeting prevailing wage and apprenticeship requirements to qualify for an enhanced credit.

Clean vehicles, used clean vehicles, and commercial clean vehicles. See changed in Chapter 9.

Chapter 13—Taxes and Interest

State and local income taxes. The Consolidated Appropriations Act, 2023, did NOT change the SALT cap.

The IRS has approved the use of Pass-Through Entity Tax (PTET) options, which vary among the locations using them. New York City's PTET is effective in 2023.

Self-employment tax. The Social Security wage base limit, which applies for self-employment taxes, is $160,200 in 2023 (up from $147,000 in 2022). The tax rate for the Social Security portion of self-employment tax is 12.4% on net earnings up to this dollar limit. The tax rate for the Medicare portion of self-employment tax is 2.9% on all net earnings. The tax deduction is limited to one-half of the self-employment tax.

For those with net earnings over the applicable threshold amount of $200,000 for singles and $250,000 for joint filers (these dollar limits are not adjusted annually for inflation), there is also a Medicare surtax of 0.9% on excess earnings. This applies only to the so-called employee portion, so it is *not* deductible.

Employment taxes—FICA. The wage base limit for the Social Security portion of FICA in 2023 is $160,200 (up from $147,000 in 2022). The rate for the employee's Social Security portion of FICA is unchanged at 6.2%.

Employment taxes—FUTA tax. For purposes of FUTA in 2022, the following are "credit reduction states":

State	FUTA credit reduction
California	0.3%
Connecticut	0.3%

Illinois	0.3%
New York	0.3%

Interest expense payments. For 2023, "small businesses" are automatically exempt from the net interest expense limit. These are businesses with average annual gross receipts for the 3 prior years not exceeding $29 million (up from $27 million in 2022).

Chapter 14—First-Year Expensing, Depreciation, Amortization, and Depletion

First-year expensing. The expensing limit for 2023 is $1,160,000 (up from $1,080,000 in 2022). The limit phases out when purchases for the year exceed $2,890,000. Thus, no expensing can be used if purchases for the year $4,050,000 million or more.

Modified accelerated cost recovery system—recovery periods. The 3-year recovery period for racehorses 2 years or younger expired at the end of 2022 and has not yet been extended for 2023.

Research and experimentation costs. The rule requiring qualified costs for 2022 and beyond to be amortized over no less than 5 years (15 years for foreign R&D) was not changed by the Consolidated Appropriations Act, 2023. Such costs cannot be expensed.

Using the amortization rule requires a change in accounting method. The IRS has a simplified method for this purpose.

Chapter 16—Retirement Plans

Participation. Long-term part-time employees are eligible to participate in company retirement plans if they meet certain qualifications. SECURE Act 2.0 (which incorporated changes from the EARN Act) shortened the service requirement from 3 years to 2 years. However, this change does not take effect until 2025. So, eligible part-timers are those who complete 500 hours of service in 3 consecutive years through 2024; 2 consecutive years starting in 2025.

Contribution limits. Various limits have been increased for 2023. The following apply to 2023 (not to 2022 returns):

- 401(k) plan elective deferrals: $22,500, plus $7,500 for those who are age 50 and older by December 31, 2023 (the limits are $20,500 and $6,500 respectively in 2022).
- Savings incentive match plan for employees (SIMPLE) elective deferrals: $15,500, plus $3,500 for those who are age 50 and older by December 31, 2023 (up from $14,000 and $3,000 respectively in 2022).
- Defined contribution plans (profit-sharing plans and simplified employee pension plans [SEPs]): the limit is $66,000 (up from $61,000 in 2022).

- Defined benefit (pension) plans: the limit is $265,000 (up from $245,000 in 2022).
- Compensation taken into account in figuring contributions and benefits: the limit is $330,000 (up from $305,000 in 2022).
- IRAs: the contribution limits for 2023 are $6,500 (up from $6,000 in 2022), plus $1,000 for those age 50 or older by December 31, 2022. However, the adjusted gross income limits for making deductible contributions for those who are active participants in qualified retirement plans have been increased slightly.

Correction on page 303. The limit on benefits from a defined benefit plan in 2022 is $245,000.

Small incentives. Starting in 2023, employers may give employees a small incentive to induce them to make elective salary deferrals. The incentive must be a low-cost gift card (what is "low-cost" remains to be defined). Employers have to use company funds for this purpose; they cannot be paid for with plan assets.

Distributions and plan loans. There are a number of changes effective in 2023:

- The starting age for required minimum distributions increases to age 73 for those who turn 72 after 2022. The rule allowing employees who are not more-than-5% owners may continue to defer RMDs to retirement if the plan allowed it.
- The plan may permit penalty-free distributions before age 59½ to an individual who is terminally ill.
- The plan may allow for disaster distributions for federal disasters occurring on or after January 26, 2021. This applies to withdrawals up to $22,000 that are taken within 180 days of the event. The distribution is taxable, but not subject to the 10% early distribution penalty. The distribution may be recontributed within three years.
- The plan may allow for disaster loans up to the lesser of $100,000 or 100% of the account balance. For participants living in a federal disaster area and suffering an economic loss, plan loan payments may be delayed for one year and the usual five-year payment deadline can be extended by one year.
- Birth or adoption distributions have a 3-year repayment period; it is no longer indefinite.

Tax credits. There are a couple of credit changes for 2023:

- The credit for small employer pension plan startup costs is doubled to 100% of costs and runs for 5 years. However, this enhanced credit applies only to employers with up to 50 employees. A phased-out credit applies for employers with between 51 and 100 employees. The credit limit for the very small employers is 100% for the first 2 years, 75% for the third year, 50% in the fourth year, and 25% in the fifth year.

Note: SECURE Act 2.0 makes it clear that the credit may be claimed by a business that joins a multiple employer plan (MEP), retroactive to 2020.

- There is a new credit beginning in 2023 for a small employer that enrolls a military spouse of an employee in the company's retirement plan. The credit is the sum of $200 for such individual who participates in an employer plan, plus the amount of employer contributions not exceeding $300. Military spouses may be enrolled within 2 months of the employee's hiring and is treated as having 2 years of service for purposes of matching or nonelective contributions.

Disaster-related rules. For federal disasters occurring on or after January 26, 2021, withdrawals up to $22,000 within 180 days of the event are not subject to a 10% early distribution penalty, although they are still taxable. These distributions may be repaid to the plan within 3 years and taxes paid can be recouped.

Disaster loans are permitted up to the lesser of $100,000 or 100% of the account balance. For participants living in a federal disaster area and suffering an economic loss, plan loan payments may be delayed for one year and the usual 5-year payment deadline can be extended by one year.

State-sponsored plans. No additional states created these plans. However, note effective dates for some plans listed in the book: Colorado (2023), Maine (April 2023), New Mexico (July 1, 2024), Virginia (July 1, 2023), and New Jersey and Vermont have yet to announce their effective date.

Note: SECURE Act 2.0 created a "starter 401(k) plan for employers that do not have any qualified retirement plan. This plan will be funded entirely with employees' elective deferrals, which may begin in 2024. These elective deferrals will be no less than 3% or more than 15%. Elective deferrals will be automatic for those eligible to participate; employees will be able to opt out. Elective deferrals will be limited to annual IRA contribution limits, not the 401(k) limits. It is not clear at this time whether use of a starter 401(k) plan will mean small employers do not have to use state-sponsored plans.

Making contributions. SECURE Act 2.0 allows sole proprietors and one-member LLCs with solo 401(k)s to make retroactive elective deferrals for the first years of the plan's adoption until the return due date. This rule is effective starting in 2023.

PBGC premiums. For planning purposes, in 2023 the flat-rate premium for each participant is $96 (up from $88 in 2022). The variable rate premium for underfunded plans is $52 per $1,000 of unfunded benefits per employee (up from $48), with a cap of $652 per participant (up from $598).

Notice requirements. Plans do not have to send certain notices to employees who opted not to participate. However, annual reminders about eligibility to participate continue to be required.

Plan amendments. The IRS intends to publish a list each year of required amendments for individually-designed retirement plans. The list for 2022 includes updates to pre-approved defined benefit plans (see Notice 2022-62). Check the cumulative list of required amendments. The amendment deadline is December 31, 2024, for the 2022 list of amendments. The amendment deadline is December 31, 2023, for 2021 amendments (see Notice 2021-64). If you use a prototype plan, which is one provided to you from the financial firm with which you maintain your plan, you will automatically receive documents reflecting plan amendments; you do not have to do anything other than retain the revised documents in your records.

Chapter 17—Casualty and Theft Losses

Disaster losses. Find a list of all federal disaster areas for 2022 from FEMA. Designated disasters in 2023 will also be listed by FEMA.

Chapter 19—Medical Expenses

Health coverage tax credit. This credit will helped Trade Adjustment Assistance recipients and certain other individuals to obtain a tax credit for health coverage expired at the end of 2021 and was not extended for 2022.

Small employer health care credit. Small employers can take this tax credit only if average annual payroll is below a set amount. This amount has been adjusted for inflation so that the full credit applies if the average annual payroll in 2023 is $30,700 (up from $28,700 in 2022).

Qualified small employer health reimbursement arrangements (QSEHRAs). These reimbursement plans are a way for small employers to help employees pay for the cost of health coverage. For 2023, reimbursements to employees are capped at $5,850 for self-only coverage and $11,800 for family coverage (up from $5,450 and $11,050, respectively, in 2022).

Health savings accounts. To have a health savings account, you must be covered by a high deductible health plan (HDHP). The Consolidated Appropriations Act, 2023, extended the favorable rule with respect to telehealth services. An HDHP can cover telehealth services without a deductible through 2024.

The contribution limit for 2023 increases to $3,850 for self-only coverage; the limit for family coverage increases to $7,750 (up from $3,650 and $7,300, respectively, in 2022). Those who are age 55 or older by the end of 2022 but not on Medicare can add another $1,000 for the year (this additional contribution limit is unchanged and married persons must have separate accounts to each use the additional limit).

To contribute to a health savings account, the person must be covered by a high-deductible health plan. For 2023, this means that the plan has a minimum deductible of $1,500 for self-only coverage and $3,00 for family coverage. The cap on annual out-of-pocket expenses (deductibles, co-payments, and other amounts but not premiums) cannot exceed $7,500 for self-only coverage and $15,000 for family coverage.

Flexible spending arrangements (FSAs). The maximum amount that employees can add to a medical FSA in 2023 is $3,050 (up from $2,850 in 2022).

Chapter 20—Deductions for Farmers

Cannabis businesses. Federal law has not changed the treatment of cannabis businesses for tax purposes. This is so even though more states have legalized the use of pot for medical and/or recreational purposes.

Depreciation. The 3-year depreciation recovery period for racehorses 2 years or younger expired at the end of 2021; it has not been extended for 2022.

Chapter 21—Qualified Business Income Deduction

Taxable income. Just to be clear, taxable income means taxable income figured the usual way reduced by net capital gains.

The taxable income threshold for 2023. The taxable income thresholds for the QBI deduction are:

Filing status	***Threshold amount***	***Phase-in range amount***
Married filing jointly	$364,200	$464,200
All other filers	$182,100	$232,100

Correction. The example on page 406 omitted some information. It should read as follows (with the omitted information in bold):

Your QBI deduction is $120,000, which is the lesser of:

- 20% of QBI ($600,000 x 20% = $120,000) or
- The greater of 50% of W-2 wages of $150,000 ($300,000 x 50%) or **25% of W-2 wages of $75,000 ($300,000 x 25%) plus** UBIA of $25,000 (2.5% of $1 million)

Clarification of understatement penalty. If you claim a QBI deduction and understate your tax liability, you are subject to a penalty of 5% of the tax required to be shown on your return or $5,000, whichever is greater.

Chapter 22—Miscellaneous Business Deductions

Personal education incentives for 2023: Student loan interest. The 2023 modified adjusted gross income range over which the deduction limit of up to $2,500 of interest is phased out is $155,000 to $155,000 on a joint return; for singles it is $75,000 to $90,000. These dollar amounts are each $5,000 than in 2022.

Cancellation of student loan debt by most lenders is not taxable income. This rule applies through 2025.

Repayment of most types of student loan debt was paused through June 30, 2023.

The U.S. Supreme Court agreed to hear the case of Brown v. Dept. of Education, which held that the proposed loan forgiveness program was unlawful. Arguments before the Court on in February 2023; a decision may be given any time before the Court's term ends in the last week of June 2023.

Charitable contributions. The 2021 tax rules for charitable contributions for individuals and C corporations were not extended to 2022. As a result, individuals who do not itemize may not claim any charitable contribution as an adjustment to gross income. Those who itemize are limited to 60% of adjusted gross income for cash contributions. Charitable contributions by C corporations are deductible up to 10% of taxable income.

Legal and professional fees. If you win a dispute with the IRS in which the government was not substantially justified, you may be able to recover costs up to a set dollar amount. For 2023, the dollar amount is $230 per hour (up from $220 in 2022).

Meal costs for day care providers. For 2023, the rates for standard meals and snack rates in all localities have increased. They are:

Breakfast:

- States other than Alaska and Hawaii: $1.66
- Alaska: $2.59
- Hawaii: $1.91

Lunch and dinner:

- States other than Alaska and Hawaii: $3.04
- Alaska: $4.87
- Hawaii: $3.55

Snacks:

- States other than Alaska and Hawaii: $0.97
- Alaska: $1.52
- Hawaii: $1.12

Chapter 23—Roundup of Tax Credits

There are a number of new credits for businesses beginning in 2023. These include:

- Expansion of the credit for small employer pension plan startup costs (see Chapter 16)

- New credit for enrolling military spouses in company retirement plans (see Chapter 16)
- Clean vehicle credit (see Chapter 9)
- Used clean vehicle credit (see Chapter 9)
- Commercial vehicles credit (see Chapter 9)
- Changes to the alternative fuel refueling property credit (see Chapter 10)

The Indian employment credit expired at the end of 2021 and was not extended to 2022. The rules for the dependent care credit that applied in 2020 apply for 2022; the enhanced rules for 2021 were not extended.

Chapter 24—Income and Deduction Strategies

Chapter 26—Strategies for Opening or Closing a Business

Chapter 29—Alternative Minimum Tax

Exemption amounts. The AMT exemption amounts for 2023 are:

Filing status	2023 exemption
Married filing jointly/surviving spouse	$126,500
Single/head of household	$81,300
Married filing separately	$63,250

Exemption phase-out. The exemption amounts for 2023 start to phase out when alternative minimum taxable income (AMTI) exceeds $1,156,300 for married filing jointly and surviving spouses and $578,150 for other filers.

Chapter 30—Other Taxes

State income taxes. There have been some tax changes for businesses at the state and local levels. For example, effective January 1, 2023, Arkansas, Iowa, Nebraska, New Hampshire, and Pennsylvania reduced their corporate tax. Owners of pass-through entities may benefit from state income tax reductions in 11 states, 3 of which (Arizona, Idaho, and Mississippi) converted to a flat tax. Check with state tax departments in all locations in which you do business to learn if there have been any tax changes impacting your business.

Employment and self-employment taxes. The 2023 wage base limit for the Social Security tax portion of FICA and self-employment tax is $160,200 (up from $147,000 in 2022).

Sales taxes. A number of states have changes in sales tax rules for 2023. Check with your state finance/revenue/tax division. Congress did not enact proposals that would simplify sales taxes for online sellers on sales to out-of-state customers.

Chapter 31—Filing Tax Returns, Paying Taxes, and Making Refund Claims

Credit card charges. As yet, the IRS does not accept credit card payments for taxes. Taxpayers must use an IRS-authorized credit card processor to pay taxes by credit card; there's a convenience free charged by the processor.

Chapter 32—Retirement and Succession Planning

2023 limits on earnings for those working while receiving Social Security benefits. There is no limit on those who have attained full retirement age. For those who receive benefits and are under full retirement age, the earnings limit in 2023 is $1,770 per month ($21,240 for the year).

If earnings exceed this limit, then benefits are reduced by $1 for each $2 of excess earnings. For the year in which you reach full retirement age, the earnings limit is $4,710 per month ($56,520 for the year). If earnings for the months prior to attaining full retirement age exceed the limit, benefits are reduced by $1 for each $3 of excess earnings.

Chapter 33—Working with CPAs and Other Tax Professionals

PTINs. The fee charged by the IRS for a tax preparer to obtain a PTIN for the 2023 tax season is $30.75 (down from $35.95 in the 2022 filing season). It is nonrefundable.

Appendix A—Information Returns

Merchant transactions. For purposes of Form 1099-K, the threshold for processors to report merchant transactions by credit card, debit card, or electronic transfer is still $600 in transactions in the aggregate in 2022 without regard to the number of transactions; Congress did not change this threshold. However, the IRS made 2022 a "transition year," requiring reporting only there are more than 200 transactions totaling more than $20,000.

Appendix B—Tax Penalties

The following penalties apply to 2023 returns required to be filed in 2024:

Failure to file a tax return. The penalty is the lesser of $485 or 100% of the amount required to be shown on the return.

Failure of a partnership to file a return. The penalty is $235. The penalty is per month (or part-month) that the return is late, up to a maximum of 12 months, and is multiplied by the number of partners during any part of the year.

The penalty for a failure to furnish a Schedule K-1 is $310 for each failure, up to a maximum of $3,783,000 ($1,261,000 for businesses with average annual gross receipts in the 3 most recent years of $5 million or less). The penalty is increased to $630, or, if greater, 10% of the aggregate amount of items required to be reported, if the failure is due to intentional disregard of the reporting requirement; there is no maximum annual limit.

Failure of an S corporation to file a return. The penalty is $235 The penalty is per month (or part-month) that the return is late, up to a maximum of 12 months, and is multiplied by the number of shareholders during any part of the year.

The penalty for a failure to furnish a Schedule K-1 is $290 for each failure, up to a maximum of $3,783,000 ($1,261,000 for businesses with average annual gross receipts in the 3 most recent years of $5 million or less). The penalty is increased to $630, or, if greater, 10% of the aggregate amount of items required to be reported, if the failure is due to intentional disregard; there is no annual cap.

Appendix D—Dollar Limits and Amounts Adjusted for Inflation

Items Adjusted Annually for Inflation. The following adjustments apply for 2023 (and do not factor into the preparation of 2022 returns).

Adoption assistance—excludable employer-provided adoption assistance for employees ($15,950 for 2023).

Cash method of accounting—the gross receipts test for eligibility of C corporations and partnerships with C corporation partners to use the cash method of accounting is average annual gross receipts in the 3 prior years not exceeding a set amount ($29 million in 2023).

Energy-efficient commercial buildings. The deduction for 2023 is up to $5 per square foot.

Excess business losses for noncorporate taxpayers—the threshold used in determining whether an owner of a pass-through entity has such losses is capped on their personal returns at a set amount ($578,000 for joint filers and $289,000 for other filers in 2023).

First-year expensing (Sec. 179 deduction)—the dollar limit on the deduction, as well as the phase-out threshold on property placed in service for 2023 are $1,160,000 and $2,890,000, respectively.

Foreign earned income exclusion—the amount of wages or self-employment income earned abroad eligible for the exclusion is limited ($120,000 in 2023).

Medical flexible spending accounts (FSAs)—the most that employees can add annually on a pretax basis is capped at $3,050 for 2023.

Qualified business income deduction—the taxable income limit for the 20% deduction before application of a formula is required (and a phase-out for owners in specified service trades or businesses) is $364,200 on joint returns and $182,100 for other filers in 2023.

Small employer health insurance credit—the amount of average compensation, originally fixed at $25,000, is $30,700 for 2023.

Social Security wage base—the amount that is used to figure the Social Security portion of FICA and self-employment tax ($160,200 for 2023).

Transportation fringe benefits—the amount excludable for free parking, and the aggregate amount excludable for transit passes or van pooling, is $280 per month in 2023.

Items set by the IRS. The following adjustments apply for 2023 (and do not factor into the preparation of 2022 returns):

Deemed depreciation for business vehicles—if the deduction for expenses for business use of a personal vehicle owned by the taxpayer is figured using the IRS's standard mileage allowance, then the basis of the vehicle is reduced by a set amount per mile (e.g., 28¢ per mile in 2023).

Mileage allowance—the rate per mile used to determine the deduction for business use of a personal vehicle instead of deducting the actual costs is 65.5¢ per mile in 2023.