

## Issues related to taxable income

**Tax on capital gains:** 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. Property held one year or less is treated as short-term.

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.

Rate	Taxable income breakpoint (2022) (Rev. Proc. 2021-45)
0%	Single: \$41,675 MFS: \$41,675 MFJ: \$83,350 HOH: \$55,800 Estates and trusts: \$2,800
15%	Single: \$459,750 MFS: \$258,600 MFJ: \$517,200 HOH: \$488,500 Estates and trusts: \$13,700
20%	No breakpoint

If your income is below the taxable income breakpoint for the 0% rate, then harvesting long-term capital gains to generate free income can be a great tax strategy.

**Capital losses:** Capital losses are only deductible to the extent they offset capital gains, with the small exception that capital losses can be used to offset up to \$3,000 of ordinary income each year (\$1,500 for married couples filing separately). Any unused capital losses carry forward to future years.

**Retirement account distributions (in general):** Distributions from retirement accounts, such as IRAs, 401(k) or other employer-sponsored retirement plans are taxed as ordinary income. Any stock market transactions within these structured retirement accounts do not give rise to a taxable event. The taxable event is the act of pulling the money out of the account.

**Required minimum distributions (RMDs):** You must begin taking distributions from your retirement accounts in the year you turn age 72 (formerly age 70½). You can delay your first RMD to the year after you turn age 72, but must take the first distribution by April 1 of the second year and you must take your second year's RMD by December 31. In other words, if you choose not to take your RMD in the year you turn age 72, then you must take two RMDs the next year.

Calculating the RMD is very simple. It's as simple as dividing the balance of your retirement account on December 31 of the previous year by a life-expectancy factor published in IRS Publication 590-B. For example, a person who is age 72 in 2022 has a life expectancy factor of 27.4 years. Assume this person has an IRA with an account balance of \$275,000 on December 31, 2021. This person's 2022 RMD is \$10,037 ( $\$275,000 \div 27.4$ ).

**IRA contributions:** Taxpayers can continue making contributions to either a traditional IRA or Roth IRA at any age, as long as the taxpayer has earned income. Earned income is income earned from working, not from investments. The IRA contributions limits for 2022 are \$6,000, plus an additional \$1,000 catch-up contribution for those age 50 and over.

Whether a taxpayer can claim a deduction for contributions to a traditional IRA depend on whether the taxpayer or their spouse is an active participant in an employer-sponsored retirement plan and the amount of the taxpayer's adjusted gross income. Taxpayers can always make non-deductible contributions to traditional IRA accounts but should be careful to track their basis year-over-year and should consider using a "back-door" Roth IRA conversion strategy when available.

Whether a taxpayer can contribute to a Roth IRA depends on the amount of the taxpayer's adjusted gross income. If their income is too high, then they cannot make a Roth IRA contribution. However, taxpayers can always do a Roth conversion, no matter their income level.

## Issues related to tax deductions

**Standard deduction for 2022:** The standard deduction remains high through 2025 thanks to the Tax Cuts and Jobs Act. The standard deduction for 2022 is:

Filing status	2022
Married filing joint and qualifying widow(er)	\$25,900
Head of household	\$19,400
Single	\$12,950
Married filing separate	\$12,950

Taxpayers who are age 65 by the end of the year or who are blind can claim an additional standard deduction of:

Filing status	2022
<b>Unmarried</b>	
Elderly or blind	\$1,750
Elderly and blind	\$3,500
<b>Married</b>	
Elderly or blind (per taxpayer)	\$1,400
Elderly and blind (per taxpayer)	\$2,800

**Medical expenses:** Taxpayers can deduct medical expenses paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body. However, medical expenses generally only deductible to the extent the taxpayer can climb two hurdles:

- They are only deductible to the extent they exceed 7.5% of adjusted gross income; and
- The taxpayer must itemize their deductions.

## Issues related to estate and gift taxes

**Lifetime estate and gift exemption (aka, the unified exclusion):** Taxpayers will only pay estate tax (a tax on the transfer of wealth after you die) if the net value of their assets when they die is over \$12.06 million (the unified exclusion). Married couples can essentially double this figure.

The unified exclusion is adjusted annually for inflation and increases incrementally each year. However, lawmakers on each side of the political aisle constantly battle over the amount of unified exclusion. Under current law, the unified exclusion is set to revert back to \$5 million in 2026.

**Annual gifts:** Taxpayers can make tax-free gifts of up to \$16,000 to anyone they wish without having to file a gift tax return. There is no limit the number of people a taxpayer can make a gift to. For example, a grandparent with 10 grandchildren can gift each grandchild up to \$16,000 for the year (\$160,000 of gifts in total). The gifts are completely tax free to the grandchildren and the taxpayer is not required to file a gift tax return.

Taxpayers who make gifts over \$16,000 to any one person must file a gift tax return to report their “taxable gift.” A gift is referred to as a taxable gift if it is over the annual gifting limit. However, gift taxes will only be paid if the lifetime gifts made by the taxpayer exceed the unified exclusion amount (\$12.06 million in 2022).

If any gift tax is owed on a taxable gift, then it is owed by the person making the gift. Gifts are always tax free to the recipient. There is an exception to this rule if the IRS cannot collect gift taxes from the person who made the gift. In that scenario, the person receiving the gift can be the one left holding the tax bag.

**Annual gift exceptions:** There are two unique exceptions to the annual gift tax limits. Taxpayers can pay tuition or medical bills without using up any portion of their \$16,000 annual gift. Tuition must be paid directly to the educational organization and medical bills must be paid directly to the provider. The money cannot go to the person it's benefiting first.

Grandparents who want to make tuition gifts will find that paying tuition directly to a college or university is more beneficial than making a gift to a §529 education savings plan where the grandchild is near, or has already reached, college.

**Portability:** Taxpayers whose estate is under the unified exclusion amount when they die are not required to file an estate tax return (IRS Form 706). However, they must file a gift tax return if they want to elect “portability.” Portability means that a deceased taxpayer can give their unused exclusion to their surviving spouse.

For example, assume a married couple has a net estate worth \$8 million when Spouse 1 dies in 2022. The surviving spouse may decide to not file an estate tax return because the total assets are under the \$12.06 million unified exclusion. If an estate tax return is not filed and the estate remains at \$8 million when Spouse 2 dies in 2026 (when the unified exclusion is reduced to \$5 million), then Spouse 2 will have a \$3 million taxable estate (\$8 million estate upon death minus \$5 million unified exclusion). With an estimated estate tax rate of 40%, Spouse's estate will pay \$1.2 million in estate taxes.

However, if Spouse 2 were to file an estate tax return upon Spouse 1's death, then Spouse 2's unified exclusion at the time of her death would be \$17.06 million (\$12.06 million exclusion transferred from Spouse 1 plus Spouse 2's exclusion amount of \$5 million at the time of her death). In this scenario, Spouse 2's exclusion would be greater than the value of her estate and her estate would pass to her heirs without any tax liability. The simple act of filing an estate tax return saved \$1.2 million in federal taxes.

## Inherited retirement accounts

Retirement accounts that are inherited from a taxpayer who dies after December 31, 2019 generally must be fully distributed by the end of the year that contains the 10<sup>th</sup> anniversary of the account owner's date of death. There are only five types of beneficiaries who can stretch out their inherited account over their life expectancy:

- Surviving spouses;
- Minor children of the decedent (under age 21);
- Those who are not more than 10 years younger than the decedent;
- Those who are disabled; and
- Those who are chronically ill.

Since the SECURE Act's enactment, the IRS has issued numerous points of guidance and regulations to clarify the rules, such as what happens when the beneficiary is a trust and the trust's only beneficiary is the surviving spouse. The rules in this area are very detailed and nuanced.

## California-specific issues

**Property tax transfers:** California's Proposition 19 made major changes to California's property tax regime in two areas:

- Base-year value transfers; and
- Parent-child transfers.

Taxpayers age 55 and over can now transfer their Proposition 13 base-year value up to three times in their lifetime. The transfer applies to all counties in California. Prior to Proposition 19, taxpayers could only transfer their base-year value once in their lifetime and only if the county where the taxpayer's new home is located allowed base-year value transfers from other counties.

In order to transfer your base-year value to a new home, the replacement home must be equal or lesser value than the old home.

Parents can no longer transfer their Proposition 13 base-year value to their children, the following limitations apply:

- The child must use the home as their principal residence within one year of the transfer; and
- Only the first \$1 million of additional assessed value is excluded from reassessment.

The new parent-child transfer rules apply to real estate transfers on or after February 16, 2021. Transfers that took place before that date apply the old transfer rules that did not contain the two limitations above.

## New legislation

Lawmakers in Washington, D.C. have proposed further changes to retirement provisions of the Internal Revenue Code. While many of the provisions have received bipartisan support, none are currently part of any tax bills making their way through Congress. Two of the more interesting provisions include:

- Raising the RMD age from 72 to 75; and
- Allowing greater catch-up contributions for taxpayers age 50 and over and classifying the catch-up contributions as Roth contributions.