

2024 Year-End Planning Strategies



By
Jennifer Lan
Senior Wealth Strategist
Advanced Planning Group

Premi Scandurra
Wealth Strategist
Advanced Planning Group

Advanced Planning Group





As the end of another year approaches, it's a good time for people to take stock of their situation. The goal of this whitepaper is to spark conversations that may lead people to refine their planning approach, whether that be income tax planning, wealth transfer planning, or charitable planning. Sometimes, that's simply considering a new idea that could possibly save on taxes. Other times, it's enabling them to better achieve their visions for their legacy. Whichever it may be for you, we hope you find this to be a valuable resource.

Income tax planning

When thinking about tax planning before year end, many individuals think of their potential income tax liability. As a part of this planning, an individual might consider reviewing their projected income (including gains), deductions, and credits for this year and next year and considering

whether any of these can be timed in such a way so as to minimize their income tax liability. Additionally, in light of the potential reversion of the income tax brackets back to pre-2018 rates, an individual might consider how the change in rates might impact projected income tax liability now and in the future.

For more information about the potential reversion of the federal income tax brackets, see Rebecca M. Sterling, *From TCJA to TBD: Anticipating Possible Income Tax Changes When Portions of the Tax Cuts and Jobs Act Sunset* (a publication of the UBS Advanced Planning Group).

Increasing and Decreasing Income Tax Liability

When looking to increase and decrease income tax liability, the follow items are often considered before year end.

Harvesting losses

An individual who has recognized capital gains might consider harvesting capital losses to offset those gains. An individual harvests losses by selling off capital assets in which the individual has unrealized losses in a taxable transaction. By recognizing those losses, the individual potentially can offset gains and save taxes. An individual, however, can't claim certain losses.¹

For more information about harvesting losses, see Todd D. Mayo, Jacqueline Denton, and Jessica Mazzaro Friedhoff, *2024 Planning Guide* (a publication of the UBS Advanced Planning Group).

Exercising stock options

As year-end approaches, an individual who owns stock options might explore whether it makes sense to exercise any of them. If an individual has incentive stock options (ISOs), the individual might consider exercising

¹ IRC § 267(a).

those options to the extent that the individual can do so without becoming subject to the alternative minimum tax (AMT). The exercise of ISOs is not a taxable event for regular income tax purposes, but it is a taxable event for AMT purposes.² In contrast, the exercise of non-qualified stock options (NSOs) generally is a taxable event for regular income tax purposes.³ While ISOs generally are preferable from an income tax standpoint, with the potential reversion of the income tax brackets to pre-2018 rates in 2025, exercising NSOs this year and next year may have some benefits.

For more information about stock options, see Todd D. Mayo, *Equity Compensation* (a publication of the UBS Advanced Planning Group).

Estimating and planning to pay taxes and filing income tax returns

As year-end approaches, an individual might consider calculating (or re-calculating) the taxes that they expect to pay, confirming that they've made sufficient tax payments during the year (either through withholding or estimated taxes), and planning for the payment of any taxes that will be due (whether through additional estimated tax payments or a final tax payment).

Additionally, most individuals 2024 income tax returns are due April 15, 2025.⁴ An individual may apply for an extension to file their income tax return. The Internal Revenue Service (IRS) grants an automatic six-month extension so long as the individual files an application for

extension before the original due date for the income tax return.⁵ With the extension, the 2024 income tax return generally is due October 15, 2025.⁶ An extension of time to file doesn't extend the date on which the individual must pay their taxes.⁷

For more information on estimating and paying taxes, see Todd D. Mayo, Jacqueline Denton, and Jessica Mazzaro Friedhoff, *2024 Planning Guide* (a publication of the UBS Advanced Planning Group).

Wealth transfer planning

There are a number of opportunities for planning that can minimize or avoid gift, estate, and generation-skipping transfer (GST) taxes.

Making annual exclusion gifts

Congress doesn't limit the ability to make gifts, but it does limit the amount that can be gifted without incurring gift taxes. Generally, the two main gifting tools are the annual exclusion and the lifetime exemption. In 2024, the annual exclusion allows an individual to give up to \$18,000 to any number of individuals (\$36,000 per married couple). Any gifts in excess of this amount count against an individual's lifetime exemption (which is discussed below).

Making gifts using the lifetime exemption

An individual who wishes to reduce their estate for estate tax purposes might consider making gifts that use their lifetime exemption (i.e., gift and estate tax exemption). These are gifts

that don't qualify for the gift tax annual exclusion, tuition exclusion, medical expense exclusion, marital deduction, or charitable deduction. In tax parlance, these are called taxable gifts, even though an individual doesn't pay any gift tax on them until the total amount of taxable gifts that an individual makes during their life exceeds their lifetime exemption.⁸ In 2024, an individual's lifetime exemption is \$13.61 million.⁹ The lifetime exemption indexes annually for inflation, but a temporary doubling of the lifetime exemption is set to expire after 2025.

By making gifts that use their lifetime exemption, the individual potentially removes from the individual's estate any future appreciation with respect to the money or property that the individual gives away. In addition, by making those gifts before the lifetime exemption is currently set to decrease after 2025, the individual potentially can take advantage of the higher exemption.¹⁰

When making gifts that use their lifetime exemption, an individual might make gifts into an irrevocable trust for the benefit of their spouse and descendants (sometimes called a spousal lifetime access trust) or an irrevocable trust for the benefit of their descendants.¹¹ Using a trust may offer important advantages. A trust can potentially insulate trust property from the claims of a beneficiary's creditors (including a spouse or former spouse), and it can potentially keep the trust property out of a beneficiary's estate for estate tax purposes.

² IRC §§ 56(b)(3), 83(e)(1), and 421(a).

³ IRC § 83(e)(3).

⁴ IRC §§ 6072(a) and 7503. See also Treas. Reg. §§ 1.6072-1(a) and (d).

⁵ Treas. Reg. § 1.6081-4(a). See also IRC § 7503.

⁶ Id.

⁷ Treas. Reg. § 1.6081-4(c).

⁸ Treas. Reg. § 25.2505-1(a).

⁹ IRC § 2010(c) and Rev. Proc. 2021-45. This assumes that the individual is a US citizen.

¹⁰ Treas. Regs. §§ 20.2010-1(c)(1) and (c)(2).

¹¹ Treas. Reg. § 25.2503-2(a) (a gift in trust is generally treated as a gift to the beneficiaries of the trust).



For more information about making gifts using the lifetime exemption, see Todd D. Mayo, Jacqueline Denton and Jessica Mazzaro Friedhoff, *2024 Planning Guide* (a publication of the UBS Advanced Planning Group). For a discussion of the spousal lifetime access trusts, see Catherine McDermott, *Spousal Lifetime Access Trusts* (a publication of the UBS Advanced Planning Group).

Corporate Transparency Act

The Corporate Transparency Act created new reporting requirements that will affect many family businesses and other entities that families use in their wealth structures.¹² Under the act, reporting companies must provide information about their beneficial owners to the Financial Crimes Enforcement Network (FinCEN).¹³ On September 30, 2022, FinCEN issued regulations implementing the reporting requirements.¹⁴ These reporting requirements, which apply to many family-controlled and other types of companies, aim to diminish the ability of bad actors to use entities for illicit purposes, including corruption, money laundering, terrorist financing, and tax evasion.¹⁵

A reporting company generally is any corporation, limited liability company, or other entity formed or registered in the United States, unless it qualifies for an exemption.¹⁶ A trust is not a reporting company. A beneficial owner generally is any individual who (directly or indirectly) exercises substantial control over the reporting company or (directly or indirectly) owns or controls 25% or more of the reporting company's ownership interests.

According to the regulations:

- For a reporting company formed or registered before January 1, 2024, its initial report is required to be submitted to FinCEN not later than January 1, 2025.
- For a reporting company formed or registered on or after January 1, 2024, its initial report is required to be submitted to FinCEN within 90 calendar days of formation.
- After a reporting company files its initial report, an updated report is required to be submitted to FinCEN within 30 calendar days after any change in the previously reported information (e.g., perhaps as the result of a change to the management or ownership structure of a reporting company).

Keep in mind, a federal district court held the Corporate Transparency Act to be unconstitutional, but the federal government appealed that decision. The ultimate resolution of the constitutional issues may take months or even years. FinCEN announced that it will continue to enforce the Corporate Transparency Act subject to any court orders enjoining enforcement against certain reporting companies.

For more information on the Corporate Transparency Act, see Todd D. Mayo, *FinCEN Requires Certain Dissolved Companies to File Beneficial Ownership Information Reports* (a publication of the UBS Advanced Planning Group), Todd D. Mayo, *Beneficial Ownership Reporting Requirement under the Corporate Transparency Act* (a publication of the UBS Advanced Planning Group), Todd D. Mayo, *Some Common Questions about the Reporting Requirements under the Corporate Transparency Acts* (a publication of the UBS Advanced Planning Group), and Todd D. Mayo, *Federal Court Rules the Corporate Transparency Act is Unconstitutional* (a publication of the UBS Advanced Planning Group).

¹² Pub. Law 116-283 (2020), §§ 6401 to 6403.

¹³ See, generally, 31 USC § 5336(b)(1).

¹⁴ *Beneficial Ownership Information Reporting Requirements*, 87 Fed. Reg. 59498 (September 30, 2022). In 2021, FinCEN promulgated proposed regulations. See *Beneficial Ownership Information Reporting Requirements*, 86 Fed. Reg. 69920 (December 8, 2021). FinCEN had previously issued an advance notice of proposed rulemaking, soliciting comments on the regulations implementing the reporting requirements. See *Beneficial Ownership Information Reporting Requirements*, 86 Fed. Reg. 17557 (April 5, 2021).

¹⁵ 87 Fed. Reg. 59498, 59500-59507.

¹⁶ Even certain dissolved entities may qualify as a reporting company.

Trust planning and administration

As year-end approaches, an individual may wish to review the administration of any trusts of which they are a grantor, beneficiary, or trustee.

Sending Crummey notices

In some cases, an individual may design an irrevocable trust so that one or more of the beneficiaries has the power to withdraw some or all of each contribution made to the trust. To the extent that a beneficiary can withdraw a contribution to a trust, the contribution is a gift to the beneficiary and qualifies for the gift tax annual exclusion.¹⁷ When an individual makes a contribution to a trust, the trust agreement may require the trustee to provide notices to the beneficiaries who can withdraw some or all of the contribution. Even if the trust agreement doesn't require the trustee to send those notices, it may be advantageous to do so to ensure that the contribution qualifies for the gift tax annual exclusion (to the extent of the withdrawal powers).

Making year-end distributions from nongrantor trusts

As year-end approaches, a grantor or beneficiary of a nongrantor trust might ask the trustee to consider distributing the trust's income (and, depending on the terms of the trust, the trust's capital gains) to the beneficiaries who are taxed at lower rates than the trust. This may be more tax efficient, because trusts are subject to compressed income tax brackets and a lower threshold for the 3.8% net investment income tax. Under the 65-day rule, the trustee may make a distribution within the first 65 days of 2025 and, for tax purposes, treat it as being made on December 31, 2024.¹⁸ This gives the trustee some extra time to evaluate whether to make

a distribution. Of course, the trustee should consider the tax status, goals, and objectives of the trust and beneficiaries before making any tax-motivated distributions to any of the beneficiaries.

Charitable giving

If an individual is charitably inclined, they should review their charitable gifts made so far this year and consider whether they wish to make additional gifts. In addition to helping an individual achieve their philanthropic objectives, a charitable gift often provides tax benefits. The individual may be able to claim an income tax charitable deduction (which can reduce their regular income tax and AMT), and sizable gifts may help to reduce the individual's estate for estate tax purposes (which potentially can reduce estate taxes).

Making year-end gifts

If an individual wishes to obtain an income tax charitable deduction for 2024, the individual must make their gift on or before December 31, 2024.¹⁹ When contemplating year-end gifts, an individual should be mindful of the practical issues with completing the gift. For example, a gift of stock for which the donor has a physical stock certificate may take several weeks to complete. Similarly, a gift of real estate involves preparing a deed, signing it, and delivering it to the charitable organization.

The type of asset gifted and the particular charitable organization the asset is gifted to will (in part) determine the available charitable deduction. The donor will be subject to adjusted gross income (AGI) limitations on their charitable contributions as summarized in the table below.²⁰



¹⁷ *Crummey v. Commissioner*, 397 F.2d 82 (9th Cir. 1968). For more information about annual exclusion gifts, see making annual exclusion gifts above.

¹⁸ IRC § 663(b).

¹⁹ IRC § 170(a)(1).

²⁰ More precisely, these limits are based on the donor's contribution base, which is the donor's AGI calculated without regard to any net operating loss carrybacks.

Table 1: Charitable deduction amounts and AGI limits¹

Type of asset donated	Public charity	Private foundation	Amount of deduction
Cash	60% ²	30%	Amount of cash
Publicly-traded securities held long-term	30%	20%	Fair market value
Long-term capital gain property (other than publicly traded securities noted or tangible personal property)	30%	20%	When gifted to a public charity, fair market value; when gifted to a private foundation, cost basis

¹ More precisely, the limitation is based on the donor’s contribution base, which is the donor’s AGI computed without regard to any net operating loss carryback.

² Beginning in the 2026, cash contributions to public charities (and CRTs that ultimately may benefit only public charities) generally will be 50% of AGI.

For a detailed discussion of the rules relating to the deductibility of charitable contributions, see Rebecca Sterling, *Donor Advised Funds and Private Foundations* (a publication of the UBS Advanced Planning Group) and Todd D. Mayo, Jacqueline Denton, and Jessica Mazzaro Friedhoff, *2024 Planning Guide* (a publication of the UBS Advanced Planning Group)

Donor advised funds

One of the more common charitable vehicles is a donor advised fund (DAF). A DAF generally is a separate identified fund or account that is maintained and operated by a public charity, which is called a sponsoring organization. A donor who wishes to receive an immediate income tax deduction from the donor’s charitable contribution and retain the ability to advise on grantmaking or investing the assets in the fund may opt for a DAF.

For more information about DAFs, see Rebecca Sterling, *Donor Advised Funds and Private Foundations* (a publication of the UBS Advanced Planning Group) and Todd D. Mayo, Jacqueline Denton and Jessica Mazzaro Friedhoff, *2024 Planning Guide* (a publication of the UBS Advanced Planning Group).

Private foundation distribution requirements

An individual who created a private foundation and remains involved in its management (such as a director or trustee) should review the foundation’s investments and operations before year end. There are several things to consider before year end, one of which is the distribution requirement. The foundation generally must make qualifying distributions of at least five percent of the foundation’s assets each year.

In general, qualifying distributions include grants to public charities and administration expenses (but do not include investment management fees).²¹ The failure to make the required annual five percent distribution, results in excise taxes on the shortfall.

For more information about these requirements, see Ann Bjerke, *Managing a Private Foundation* (a publication of the UBS Advanced Planning Group) and see Todd D. Mayo, Jacqueline Denton and Jessica Mazzaro Friedhoff, *2024 Planning Guide* (a publication of the UBS Advanced Planning Group).

Making qualified charitable distributions

An individual who has attained age 70½ and is charitably inclined might consider making a qualified charitable distribution (QCD), which is a distribution from an IRA to a public charity (other than a DAF or supporting organization).²² In 2024, an individual generally can make up to \$105,000 of QCDs.²³ To qualify as a QCD, the distribution must be made from an IRA directly to a qualifying charity.²⁴ An individual’s QCDs count toward the individual’s RMDs.²⁵

A QCD isn’t includible in the IRA owner’s income and thus isn’t subject to income tax.²⁶ A QCD doesn’t qualify for an income tax charitable deduction.²⁷ Excluding a QCD from income *and* allowing an income tax deduction for the distribution would be a double tax benefit.

For more information about QCDs, see Todd D. Mayo, Jacqueline Denton, and Jessica Mazzaro Friedhoff, *2024 Planning Guide* (a publication of the UBS Advanced Planning Group).

²¹ There are detailed regulations addressing the calculation of the fair market value of a foundation’s assets and administrative expenses that can be applied for purposes of determining the five percent distribution requirement.

²² IRC § 408(d)(8)(B). A distribution from an active SEP IRA or an active SIMPLE IRA, however, doesn’t qualify as a qualified charitable contribution.

²³ IRC § 408(d)(8)(A).

²⁴ IRC § 408(d)(8)(B)(i).

²⁵ *Ild.*

²⁶ IIRC § 408(d)(8)(A).

²⁷ IIRC § 408(d)(8)(E).

Key dates

The following is a list of key dates relating to tax planning.

Table 4. Key dates for individuals

2024

September 16	– Estimated tax payment due
October 15	– 2023 income tax return due if an application for extension was timely filed
December 31	– Last trading day – Last day to sell publicly traded securities that are held in an investment account and recognize a loss in 2024 (unless the wash-sale rule or another loss disallowance rule applies) – Last day to make a non-charitable gift using publicly traded securities that are held in an investment account – Last day to make a gift to charity using publicly traded securities that are held in an investment account
December 31	– Last day to make a non-charitable gift – Last day to make a gift to charity

2025

January 15	– Estimated tax payment due
January 29	– First day to buy the same or substantially identical security as a security sold on December 31, 2024 (i.e., the last trading day in 2024) without being subject to the wash-sale rule
April 15	– For anyone who isn't a resident of Maine or Massachusetts, 2024 income tax return due, unless an application for extension is timely filed – Estimated tax payment due
June 16	– Estimated tax payment due
September 15	– Estimated tax payment due
October 15	– 2024 income tax return due if an application for extension was timely filed

About the Advanced Planning Group



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

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



Disclosures

Purpose of this document.

This report is provided for informational and educational purposes only. It should be used solely for the purposes of discussion with your UBS Financial Advisor and your independent consideration. UBS does not intend this to be fiduciary or best interest investment advice or a recommendation that you take a particular course of action. The information is current as of the date indicated and is subject to change without notice.

Personalized recommendations or advice.

If you would like more details about any of the information provided, or personalized recommendations or advice, please contact your UBS Financial Advisor.

Conflicts of interest.

UBS Financial Services Inc. is in the business of establishing and maintaining investment accounts (including retirement accounts) and we will receive compensation from you in connection with investments that you make, as well as additional compensation from third parties whose investments we distribute. This presents a conflict of interest when we recommend that you move your assets to UBS from another financial institution or employer retirement plan, and also when we make investment recommendations for assets you hold at, or purchase through, UBS. For more information on how we are compensated by clients and third parties, conflicts of interest and investments available at UBS please refer to the "Your relationship with UBS" booklet provided at ubs.com/relationshipwithubs, or ask your UBS Financial Advisor for a copy.

No tax or legal advice.

UBS Financial Services Inc., its affiliates and its employees do not provide tax or legal advice. You should consult with your personal tax and/or legal advisors regarding your particular situation.

Important additional information applicable to retirement plan assets (including assets eligible for potential rollover, distribution or conversion).

This information is provided for educational and discussion purposes only and are not intended to be fiduciary or best interest investment advice or a recommendation that you take a particular course of action (including to roll out, distribute or transfer retirement plan assets to UBS). UBS does not intend (or agree) to act in a fiduciary capacity under ERISA or the Code when providing this educational information. Moreover, a UBS recommendation as to the advisability of rolling assets out of a retirement plan is only valid when made in a written UBS Rollover Recommendation Letter to you provided by your UBS Financial Advisor after a review of detailed information that you provide about your plan and that includes the reasons the rollover is in your best interest. UBS and your UBS Financial Advisor do not provide rollover recommendations verbally.

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

Important information about brokerage and advisory services.

As a firm providing wealth management services to clients, UBS Financial Services Inc. offers investment advisory services in its capacity as an SEC-registered investment adviser and brokerage services in its capacity as an SEC-registered broker-dealer. Investment advisory services and brokerage services are separate and distinct, differ in material ways and are governed by different laws and separate arrangements. It is important that you understand the ways in which we conduct business, and that you carefully read the agreements and disclosures that we provide to you about the products or services we offer. For more information, please review the client relationship summary provided at ubs.com/relationshipsummary, or ask your UBS Financial Advisor for a copy.

UBS-FS, their employees and affiliates do not provide legal or tax advice. You should contact your personal tax and/or legal advisors regarding their particular situations, including the legal and tax implications of borrowing using securities as collateral for a loan.

Version: September 6, 2024

© UBS 2024. The key symbol and UBS are among the registered and unregistered trademarks of UBS. All rights reserved. UBS Financial Services Inc. is a subsidiary of UBS Group AG. Member FINRA/SIPC. 2024-1643700