



THE 2022 US TAX SEASON TIPS & REMINDERS FOR BUSINESS OWNERS



2022 US Tax Season Tips and Reminders*

As of January 16, 2023

1. IRS Deadlines To Observe:

January 31: 2022 W-2 and 1099 forms are due.

March 15: LLCs, Partnerships and S-Corps must submit their 2022 tax returns or apply for a 6-month period extension. Also forms 1042-S are due on this date, but a 1-month extension can be requested.

April 18: 2022 C-Corporate tax returns and Personal tax returns or an application for a 6-month period extension forms are due (usually this deadline is April 15, but this year April 15 is on a Saturday and April 17 is Emancipation day in D.C. and therefore April 18 is the deadline).

May 15: Victims of California severe winter storms now have a postponed tax deadline to file individual and business tax returns and make payments (instead of the April 18 deadline for the rest of the US).

June 15: US Individual taxpayers living abroad should file their 2022 tax return or request a 4-month extension.

September 15: Extended Partnerships, LLCs and S-Corps tax returns are due.

October 15: Extended corporate and personal tax returns are due.

Individual 2023 estimated taxes due date:

April 18, 2023

June 15, 2023

September 15, 2023

January 16, 2024

2. Bonus Depreciation:

2022 was the last year that businesses could claim 100% bonus depreciation on assets bought and placed in service with a useful life of 20 years or less. **Bonus depreciation in 2023 is only 80%**, and it will scale down by 20% each year for the next 4 years.

3. LLCs and Self-Employment (SE) Tax:

Self-Employment income is subject to 12.4% Social Security Tax and 2.9% of Medicare Tax. Members of a partnership or an LLC that conduct a trade or business are considered self-employed earning self-employed income. General partners pay SE tax on all their business income from the partnership (whether distributed or not). Limited partners,



however, are subject to SE tax only on any guaranteed payments for services they provide to the partnership. LLC members who are active in management or perform substantial services related to the LLC's business are subject to SE tax, while those who more closely resemble passive investors should be treated like limited partners and are not subject to the SE tax. Given the IRS's aggressiveness in collecting SE tax from LLCs, LLCs who wish to **avoid or reduce the SE tax in the future may elect to convert the LLC to an S-Corporation, which is also a flow-through entity but not subject to the SE tax. An LLC should make the election no more than 2.5 months after the beginning of the tax year (March 15) to be effective for the current year (a relief is available for late filers under some conditions).**

4. Meals and Entertainment Expense:

Business meals and drinks from restaurants were fully deductible from the beginning of 2020 to the end of 2022. **In 2023, all business-related restaurant meals will go back to the regular rate of 50% deductibility. Entertainment expenses are still not deductible under the Tax Cuts and Jobs Act.**

5. The following Meal Expense are 100% deductible in 2023:

- a. Food for Company holiday parties
- b. Food and Beverages given out free to the public
- c. Dinner for employees working late at the office

Most other meals are 50% deductible, and in all cases, receipts are required.

6. Limitation on Business Interest Expense:

Businesses with a gross receipts' average, in the previous 3 years (2019 to 2021), of \$27 million or more and have interest expense, are subject to this limitation on the deductibility of the interest expense at 30% of Adjusted Taxable Income (ATI). ATI starts with taxable income with the following add backs: Net Operating Losses, Interest Expense, depreciation and amortization. **Businesses that have average gross receipts for the 3 prior years less than \$27 million are not subject to this limitation.**

7. Corporate Net Operating Losses (NOLs):

NOLs can be carried forward indefinitely, they cannot be carried back. However, NOLs usage is limited to 80% of taxable Income.

8. Canadians owning real estate in the US:

Canadian individuals owning a rental property in the US are required to file a US tax return claiming their rental revenues and expenses each year. Canadians who sell real estate in the US will be subject to a 15% withholding on the sales proceeds, that the



buyer will have to withhold and remit to the IRS. However, a sale of real estate by a Canadian in the US requires the seller to file a tax return for the year he/she sold the property and declare the gain (or loss) realized on the transaction and pay any income taxes due. On this tax return the Canadian seller will claim the 15% withholding and either pay the difference of the tax owed or get a refund from the IRS. In case of a loss realized on the transaction, the Canadian seller will get a full refund of the 15% withholding tax.

9. Canadian members of a US LLC or partnership:

Canadian investors in US LLCs or Partnerships are required to file a US tax return claiming their share of income of the LLC or Partnership that they receive on the K-1 forms that the LLC or Partnership issue annually.

10: S-Corporations' (S-Corp) Conditions:

An S-Corp is a corporation which is a flow through entity and does not pay income taxes. However, to be an S-Corp the following conditions must be met:

- a. Only US Corporations are eligible to be an S-Corp
- b. Shareholders are limited to 100 or fewer
- c. Only Individuals, estates and some trusts are allowed to be shareholders of an S-Corp, while partnerships, corporations or non-resident aliens (like a Canadian citizen) are not allowed to be shareholders of an S-Corp.
- d. An S-Corp cannot have more than one class of shares: Common or Preferred
- e. Some corporations are ineligible to be an S-Corp including Insurance companies and financial institutions.

If any of the above conditions is not respected, the S-Corp reverts to a regular C-Corp.

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