

# The Tax Worm



Digging up Tax Information for Individual Taxpayers 2024 Volume 2 | Mar/Apr

## In This Edition...

- IRS Online Account
- Taxpayer Bill of Rights
- NEW: Small business reporting requirements
- Tax Court denies marijuana deduction

## IRS Due Dates

**March 1**—Farmers and fisherman 2023 tax return and payment due.

**March 15**—Partnerships and S corporations 2023 tax return due.

**April 15**—2023 personal tax returns due.

**April 15**—2023 IRA and HSA contribution deadline.

**April 15**—2024 1st quarter estimated tax payment due.

**June 17**—2024 2nd quarter estimated tax payment due.

## IRS Online Account Recommended

Taxpayers are encouraged to set up an online account with the IRS. The online account will allow taxpayers to:

- Access tax records.
- Make and view payments.
- View and create payment plans.
- View the balance due.
- Manage communication preferences.
- View tax professional authorizations.

For protection of data and privacy, there is a thorough process to set up the online account. Once this has been established, taxpayers can easily access their tax information. To get started, visit the following website:

<https://www.irs.gov/payments/your-online-account>

## Why it matters...

With the same ease that taxpayers have when banking online or placing an online shopping order, they can log in and get the latest on their payment history, balance, and more.

## IRA Contribution Limits and Phaseouts IR-2023-203

<i>Phaseouts</i>	<i>2024</i>	<i>2023</i>
<b>Married joint return</b>	<b>\$ 123,000 to 143,000</b>	<b>\$ 116,000 to 136,000</b>
<b>Married separate return</b>	<b>\$ 0 to 10,000</b>	<b>\$ 0 to 10,000</b>
<b>Single filer</b>	<b>\$ 77,000 to 87,000</b>	<b>\$ 73,000 to 83,000</b>

<i>Contribution limits</i>	<i>2024</i>	<i>2023</i>
<b>Under age 50</b>	<b>\$ 7,000</b>	<b>\$ 6,500</b>
<b>Age 50 and older</b>	<b>\$ 8,000</b>	<b>\$ 7,500</b>

## Why it matters...

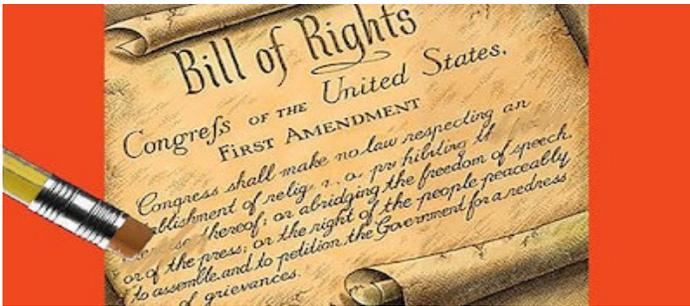
Phaseouts apply when a taxpayer or a spouse, if married, is participating in an employer sponsored retirement plan.

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## Taxpayer Bill of Rights, Part One



Every taxpayer has a set of fundamental rights they should be aware of when dealing with the IRS. Explore your rights and our obligations to protect them.

### The Right to Be Informed

Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.

### The Right to Quality Service

Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.

### The Right to Pay No More than the Correct Amount of Tax

Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties, and to have the IRS apply all tax payments properly.

### The Right to Challenge the IRS's Position and Be Heard

Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.

### The Right to Appeal an IRS Decision in an Independent Forum

Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.

*To be continued in the 2024 Volume 3 edition of The Tax Worm...*

### Why it matters...

**Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely.**

IRS Publication One

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2024 Volume 2 | Mar/Apr

## NEW: Small Business Reporting Requirements



The Beneficial Ownership Information (BOI) Reporting Rule now requires small businesses to complete special filing requirements with the Financial Crimes Enforcement Network (FinCEN). Reports must be filed which contain information about the entity itself and the beneficial owners and applicants that established the business.

Generally, reporting companies established before January 1, 2024 will have until January 1, 2025 to complete their filing. Companies established on or after January 1, 2024 will have 90 days to report the filing requirements.

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FinCEN is a federal government organization established to identify potential crimes that occur through business entities.

Additional information about the Reporting Rule and guidance materials are available at [www.fincen.gov/boi](http://www.fincen.gov/boi).

### Why it matters...

Business owners who have established a corporation, LLC, or another registered business name through their home state's Secretary of State, will most likely need to comply with these reporting requirements.

BOI Small Entity Compliance Guide

## Tax Court: Marijuana Deduction Not Allowed



Internal Revenue Code Section 162 allows a deduction for the expenses of carrying on a business. Sections 167 and 179 allow deductions for depreciation of assets used in a business. Section 280E, however, provides that no deduction is allowed for an amount paid or incurred in carrying on a business if the business consists of trafficking in controlled substances.

### Court Case (Alterman)

The taxpayers owned a dispensary which sold smokable marijuana, either as pre-rolled marijuana cigarettes (i.e., joints) or as dried marijuana buds. It also sold marijuana in edible form, such as brownies and cakes, and orally-consumed tinctures.

The dispensary also sold products that contained non-marijuana, such as pipes, papers, and other items used to consume marijuana. The taxpayers acquired all their non-marijuana merchandise from third-party sellers. The business only sold merchandise and did not provide any services.

*Court Case continued on next page...*

# The Tax Worm



Digging up Tax Information for Individual Taxpayers 2024 Volume 2 | Mar/Apr

*...Court Case: continued from page 3*

## Separate Business?

The taxpayers contended that they had a separate business of selling non-marijuana merchandise and that the business-expense deductions of this separate business are not disallowed by section 280E. Whether selling non-marijuana merchandise was a separate business from selling marijuana merchandise is an issue of fact that depends on, among other things, the degree of economic interrelationship between the two activities.

Besides marijuana paraphernalia, the taxpayers testified that the dispensary also sold:

- Hats and T-shirts with the name and business logo of the business,
- Magazines about marijuana, and
- Chicken soup.

## Court Ruling

No documentary evidence corroborated the existence or extent of these sales. On a preponderance of evidence, the Court found that no such items were sold. Furthermore, these types of products as described by the business would generally complement the sales of marijuana by the dispensary. For example, the hats and T-shirts as described by the taxpayers bore the name and business logo of the business. Thus, even if the business sold such hats and T-shirts, selling those items would have helped advertise medical marijuana.



The Court held that selling non-marijuana merchandise was not separate from the business of selling marijuana merchandise. First, the business derived almost all of its revenue from marijuana merchandise. Second, the types of non-marijuana products that it sold (pipes and other marijuana paraphernalia) complemented its efforts to sell marijuana. The Court determined the taxpayers had only one unitary business, selling marijuana.

Because the Court considered the business to consist of trafficking in controlled substances, all such deductions were disallowed by section 280E.

Among other things, the Court also ruled the taxpayers were liable for accuracy-related tax penalties.

*Alterman v. Commissioner*, T.C. Memo. 2018-83

## Why it matters...

During the years at issue, it was not illegal under Colorado law for people to use marijuana medically and for a medical-marijuana business to sell marijuana. However, both activities were illegal under federal law. This case shows the degree to which tax rules are enforced to the letter of the law.