

Crain Currency

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This year's tax-saving strategies for family offices

By **MARCUS BARAM**

Against a backdrop of higher interest rates, the rising popularity of wealth taxes and a world economy entering a period of slow growth, strategies to minimize taxes have never been more important to family offices.

“More than ever, family offices are using this time of uncertainty to take a pause and reflect,” said [Jo Anna Fellon](#), national leader of private client services at Marcum LLP in New Jersey. Many of her family-office clients are facing higher tax burdens due to appreciation of their assets, she said.

“As a result, they’re looking for opportunities like utilizing more tax loss harvesting” as well as increasing their use of gifts and interfamily loans, Fellon said.

THE HIGHLIGHTS

- Family offices could face higher tax burdens this year due to appreciation of assets.
- Though proposals to increase federal taxes fell through last year, lawmakers in seven states are now pushing wealth taxes.
- In surveys, family offices have expressed concern about cross-border tax issues.
- 64% of survey respondents are not confident that their tax operations are high-performing.

- From a tax perspective, 2022 was a roller-coaster year for the wealthy and ultrawealthy.

On one hand, Republicans successfully blocked the Biden administration's efforts to increase the top marginal income-tax rate, tax capital gains at ordinary rates and expand the net investment income tax to include active pass-through income.

On the other hand, efforts to implement wealth taxes are gaining momentum. Two weeks ago, seven states that together represent about 60% percent of the country's wealth — California, Connecticut, Hawaii, Illinois, Maryland, New York and Washington — introduced legislation aimed specifically at an individuals' net worth.

And two trusted strategies — qualified opportunity zones (QOZ) and donor-advised funds (DAFs) — could soon lose some of their shine, tax law experts say.

[Will Sinclair](#), the New York-based head of JPMorgan Private Bank's Financial Institutions Group, said he's not seeing as much demand for QOZ funds — investments in the development of economically distressed communities that may be eligible for tax benefits — “given that the benefits for current investments have been reduced.” But he is seeing “some select demand” for closely held, family-controlled QOZ funds.

Though donor-advised funds have been extremely popular because donors get an immediate tax deduction, Fellon said, there is talk of potential new rules.

Proposed regulations would create two types of DAFs: qualified and nonqualified. Qualified would require the fund to distribute the donations to charity within 15 years of receiving the donation, whereas nonqualified would extend that deadline to 50 years.

The hitch is that deductions for donations made to nonqualified DAFs would not be allowed until the funds are distributed to a qualified charity.

As family offices increasingly expand their investments and operations into other countries, cross-border tax issues become more relevant. In fact, nearly three-fourths (72%) of respondents to [Credit Suisse's survey of single-family offices](#) cited international tax consequences as a concern in 2022. Yet they remain uncertain about their own tax strategies, with 64% of respondents to Ernst & Young's survey of single-family offices saying they are not confident that their tax operations are high-performing.

SOME TAX SEASON TIPS

Here are some tax strategies that make sense in the current environment, according to wealth managers and tax lawyers.

Tax-managed investing: "It's not what you make, it's what you keep," noted [Rajesh Nakadi](#), head of investments at the global family-office unit of [BNY Mellon Wealth Management](#). Thanks to stock market losses in 2022, more clients are harvesting those losses to offset gains in other parts of their portfolios, thereby reducing their tax bills. Volatility in the markets "adds to tax loss alpha," Nakadi said, with more opportunities to buy and sell positions and with algorithmic advances in trading making it more efficient and precise.

Intrafamily loans: One significant tax-related change in the past year due to the spike in interest rates, Fellon said, is that grantor retained annuity trusts — used in estate planning to minimize taxes on large financial gifts to family members — have become less advantageous. For families with significant assets, "you can make intrafamily loans as a way to create liquidity for the matriarch or patriarch by way of an interest payment back." As an example, Fellon said that if a family makes a \$10 million loan to a generation-skipping trust, the appreciation of that money goes into

the trust as an asset, and the interest comes back to the loan giver as liquidity or cash.

Gifts: Sinclair of J.P. Morgan said clients are taking advantage of the increase in the lifetime gift exemption — from \$12.06 million in 2022 to \$12.92 million per individual in 2023 — and the increase in the annual gift limit to \$17,000 from \$16,000. “Those are the largest annual increases we have seen in years and allow clients to meaningfully lower estate tax burdens,” he said.

Charitable remainder trusts: In this era of higher interest rates, “charitable remainder trusts work better” than grantor retained annuity trusts, said [Joshua Rubenstein](#), a New York–based trust and estate attorney and chair of Katten’s private wealth department. Such irrevocable trusts let you donate assets to charity and draw annual income for life, with the contributions qualifying for a partial charitable deduction.

Pass-through entity state tax elections: “Some family offices and accounting firms are getting increasingly comfortable” with these vehicles as a workaround on the state and local tax cap limitation, Sinclair said. It has long been a technique used by operating businesses to family investment partnerships, since it gives them a way to deduct state taxes from their federal tax.

Split-dollar life insurance estate planning: In the wake of a big court case decided in favor of the taxpayer, Sinclair said interest in this strategy has increased. Under this technique, two trusts or people buy insurance on the life of a particular family member, and the policy is owned by an irrevocable life insurance trust, helping minimize gift and estate taxes.

“At the end of the day, everybody makes their own blend of choices, and my choice may be slightly more expensive than yours,” Rubenstein said. “But if it gets me closer to where I want to be and maybe I want control, I don’t want to give it all away. Maybe I wanna die with the most toys.”