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Tax Management for Ag Producers

Rob Holcomb, EA
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MAKING A DIFFERENCE IN MINNESOTA: ENVIRONMENT + FOOD & AGRICULTURE + COMMUNITIES + FAMILIES + YOUTH

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Source Acknowledgement

Land Grant University
Tax Education Foundation, Inc.

RuralTax.org

IRS
Department of the Treasury
Internal Revenue Service

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Agenda

- Corporate Transparency Act (Beneficial Ownership Reporting)
- Soil Fertility
- Expiring Provisions (abbreviated)
- Tax Planning

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Corporate Transparency Act (Beneficial Ownership Reporting

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What is Beneficial Ownership Information Reporting?

- The Corporate Transparency Act (CTA), Pub. L. 116-283 § 6401, et seq., requires all non-exempted companies to report information about their company AND their beneficial owners to FinCEN, a federal agency, beginning in 2024.

BOI E-Filing

Beneficial Ownership Information (BOI) Reporting

Need to file a BOIR? Click here!

GET STARTED

Who Owns or Controls This Entity?

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Resources

https://www.fincen.gov/boi/small-entity-compliance-guide

https://fincen.gov/boi-faqs

Small Entity Compliance Guide

BOI Beneficial Ownership Information

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Domestic Reporting Companies

Entity Type	Reporting Entity (unless exempted)
LLC	Yes
SMLLC	Yes
General Partnership	No
Sole Proprietorship	Not unless corporation or LLC
Limited Partnership	Yes
S Corporation	Yes
C Corporation	Yes
Trust	Not unless required to file with Secretary of State, but trustees or beneficiaries may be beneficial owners of other reporting entities

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Exceptions to Reporting

- The FinCEN rule lists 23 types of entities that are specifically **excepted** from reporting requirements.
- These are generally excluded from the reporting requirements because other laws regulate these entities and separately require disclosure of BOI.
- Be very careful about looking just at categories. Devil is in the details.

Exemption No.	Exemption Short Title
1	Securities reporting issuer
2	Governmental authority
3	Bank
4	Credit union
5	Depository institution holding company
6	Money services business
7	Broker or dealer in securities
8	Securities exchange or clearing agency
9	Other Exchange Act registered entity
10	Investment company or investment adviser
11	Venture capital fund adviser
12	Insurance company
13	State-licensed insurance producer
14	Commodity Exchange Act registered entity
15	Accounting firm
16	Public utility
17	Financial market utility
18	Pooled investment vehicle
19	Tax-exempt entity
20	Entity assisting a tax-exempt entity
21	Large operating company
22	Subsidiary of certain exempt entities
23	Inactive entity

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Common Exemption Issues – Dissolved

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- If a company completely, formally, and irrevocably dissolved before January 1, 2024, it is exempt from BOI reporting.
- If, however, a reporting company continued to exist as a legal entity for any period on or after January 1, 2024, it must report its BOI, even if it wound up its affairs before 2024.

C. 13. Is a company required to report its beneficial ownership information to FinCEN if the company ceased to exist before reporting requirements went into effect on January 1, 2024?

A company is not required to report its beneficial ownership information to FinCEN if it ceased to exist as a legal entity before January 1, 2024, meaning that it entirely completed the process of formally and irrevocably dissolving. A company that ceased to exist as a legal entity before the beneficial ownership information reporting requirements became effective January 1, 2024, was never subject to the reporting requirements and thus is not required to report its beneficial ownership information to FinCEN.

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Common Exemption Issues – Inactive

An entity qualifies for the inactive entity exemption if **all six** of the following criteria apply:

(1)	The entity was in existence on or before January 1, 2020.
(2)	The entity is not engaged in active business.
(3)	The entity is not owned by a ***foreign person***, whether directly or indirectly, wholly or partially. "Foreign person" means a person who is not a United States person. A United States person is defined in section 7701(a)(30) of the Internal Revenue Code of 1986 as a citizen or resident of the United States, domestic partnership and corporation, and other estates and trusts.
(4)	The entity has not experienced any change in ownership in the preceding twelve-month period.
(5)	The entity has not sent or received any funds in an amount greater than $1,000, either directly or through any financial account in which the entity or any affiliate of the entity had an interest, in the preceding twelve-month period.
(6)	The entity does not otherwise hold any kind or type of assets, whether in the United States or abroad, including any ownership interest in any corporation, limited liability company, or other similar entity.

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Deadlines for BOI Reports

- Reporting companies created or registered before January 1, 2024, have one year (**until January 1, 2025**) to file their initial reports.
- Reporting companies created or registered after January 1, 2024, but before January 1, 2025, have **90 days after creation to file their first report.**
- Reporting companies created on or after January 1, 2025, will have **30 days after creation or registration** to file their initial reports.

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Updating BOI Reports

- Once the initial report has been filed, both existing and new reporting companies will have to file updates within 30 days of a change in their beneficial ownership information.
- The 30 days begins after the company becomes aware of or has reason to know of an inaccuracy in a prior report. Any reporting company that no longer meets the requirements of an exemption from reporting shall file its report within 30 calendar days after it no longer qualifies for the exemption.

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Information that Must be reported

- For each **beneficial owner** and each **company applicant** (if required), the company must provide the individual's:
  - full legal name
  - birthdate
  - a complete address
    - For company applicants who form or register an entity, this includes the street address of the company applicant. For all individuals, beneficial owners and applicants, the address must be the residential street address of the individual.
  - an identifying number from a non-expired driver's license, passport, or other approved document for each individual, **as well as an image** of the document from which the document was obtained

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Identifying Beneficial Owners

- In general, **beneficial owners** are individuals who:

1. directly or indirectly exercise "**substantial control**" over the reporting company, or
2. directly or indirectly **own or control 25%** or more of the "ownership interests" of the reporting company.

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Penalties for Non-Compliance

- It is unlawful for any person to willfully provide, or attempt to provide, false or fraudulent BOI, including a false or fraudulent identifying photograph or document, to FinCEN or to willfully fail to report complete or updated BOI to FinCEN in accordance with the new law.
- The CTA authorizes reporting failure penalties of not more than $500 ($591 in 2024, indexed for inflation) for each day that the violation continues or has not been remedied. The statute also calls for criminal penalties of up to two years' imprisonment and a $10,000 fine.

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Court Challenges

- On March 1, 2024, in the case of ***National Small Business United v. Yellen***, No. 5:22-cv-01448 (N.D. Ala.), a federal district court in the Northern District of Alabama, Northeastern Division, entered a final declaratory judgment, concluding that the **Corporate Transparency Act exceeds the Constitution's limits on Congress's power** and enjoining the Department of the Treasury and FinCEN from enforcing the CTA against the plaintiffs.
  - https://cases.justia.com/federal/district-courts/alabama/alndce/5:2022cv01448/183445/51/0.pdf?ts=1709398196
- Court said Congress did not possess the power to pass this law under:
  - Foreign Affairs Power
  - Commerce Clause OR
  - Taxing Power

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Expiring Provisions

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What's the Big Deal?

- In 2017, Congress passed the most impactful tax bill in 30 years.
- The Tax Cuts & Jobs Act signed into law December 22, 2017, provided lower tax rates for individuals, a new 20 percent deduction for qualified pass-through business income, a 21 percent flat tax rate for corporate income, and changes impacting depreciation, expensing and losses.
- Because it was passed via the budget reconciliation process, it had a shelf life. That expiration date is December 31, 2025.

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Bonus Depreciation

- The TCJA allowed 100 percent bonus depreciation through 2022 for qualifying property acquired and placed into service after September 27, 2017.
- A phase-out was established as follows:
  - 2023: 80 percent bonus,
  - 2024: 60 percent bonus,
  - 2025: 40 percent bonus, and
  - 2026: 20 percent bonus.
- After 2026, bonus depreciation is scheduled to end.

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Higher Individual Tax Rates Are Scheduled

- The graduated rates that apply to ordinary income were restructured to include the following brackets: 10%, 12% (down from 15%), 22% (down from 25%), 24% (down from 28%), 32% (down from 33%), 35%, and 37% (down from 39.6%).
- **On January 1, 2026, the tax rates and brackets will reset to pre-2018 levels.**

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Standard Deduction

- Taxpayers only itemize deductions if the amount they can deduct on 1040, Schedule A, is more than their standard deduction. The TCJA has significantly decreased the number of taxpayers who itemize deductions by nearly doubling the standard deduction.
- In 2018, it increased the standard deduction from $13,000 to $24,000 for married filing jointly taxpayers and from $6,500 to $12,000 for single taxpayers.
- For 2024 returns, these standard deduction amounts are $29,200 for married filing jointly and $14,600 for singles.
- **The increased standard deduction is in place through 2025 and will reset to prior levels, indexed for inflation, in 2026.**

Child Tax Credit

- The TCJA raised the child tax credit from $1,000 to $2,000 per qualifying child for tax years 2018 through 2025. [I.R.C. § 24(h)(2)].
- Of this credit, $1,400 per child is refundable.
- The TCJA also created a new $500 nonrefundable credit for each dependent who does not qualify for the child tax credit, including those over the age of 16.
- **Note: During COVID, this CTC was increased to $3,000 - $3,600 per child, with no earned income required and full refundability!**

Child Tax Credit

- In addition to receiving a larger child tax credit, **many more families have qualified for the child tax credit** under the TCJA because the phase-out of the credit does not begin until a married filing jointly couple reaches an adjusted gross income of $400,000 or a single taxpayer reaches an adjusted gross income of $200,000.
- In 2026, the $1,000 credit per child will begin to phase out when the married filing jointly couple has modified adjusted gross income above $110,000 and the single taxpayer has modified adjusted gross income above $75,000.

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Qualified Business Income Deduction

- For tax years 2018 through 2025, the TCJA allows most individuals receiving income from a sole proprietorship or a pass-through business—including an S corporation or a partnership—to take a 20% qualified business income deduction (QBI deduction). [I.R.C. § 199A].
- Additionally, agricultural cooperatives are allowed to take a I.R.C. § 199A(g) deduction or pass that deduction through to their patrons, similar to the domestic production activities deduction (DPAD) under I.R.C. § 199.
- **Impact = tax rate * 20 percent.**

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Qualified Business Income Deduction

- Section 199A is set to expire in 2026. This will significantly impact small businesses, as well as agricultural cooperatives and their patrons.
- The DPAD deduction provided by I.R.C. § 199, was permanently repealed by the TCJA in 2018.

Corporate Tax Rate Reduction Permanent
In contrast to the pass-through tax deduction, the TCJA provision lowering the top corporate tax rate from 35% to a flat tax rate of 21% was a permanent change.

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Alternative Minimum Tax

- The TCJA significantly increased exemptions and phaseout limits for individuals, ensuring that many fewer taxpayers are subject to the AMT through 2025.

	2018	2024
Exemption	55,400 (single)	85,700 (single)
	86,200 (MFJ)	133,300 (MFJ)
Phaseout	123,100 (single)	609,350 (single)
	164,100 (MFJ)	1,218,700 (MFJ)
28% Rate	191,500	232,600

- In 2026, the AMT returns to prior levels, indexed for inflation.

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Excess Business Loss Limits

- The TCJA implemented an excess business loss rule that replaced (and expanded upon) the excess farm loss rule. Under I.R.C. § 461(l)(3)(A), an "excess business loss" is one that exceeds $500,000 (married filing jointly) or $250,000 (single).
- These limit amounts have been indexed for inflation, so that in 2024, loss limits are $610,000 for MFJ and $305,000 for singles. Any loss disallowed by this rule is treated as a net operating loss and subject to NOL carryover rules.
- Although 2025 was originally the last year for this provision, intervening legislation has further extended this provision through December 31, 2028.

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Permanent Changes

- **Like-Kind Exchange**: Real property only
- **Vehicle Depreciation:** increases for passenger automobiles
- **Net Operating Losses**: Two-year carryback for farms, limit of 80% of taxable income.
- **Cash Accounting**: Expanded cash accounting to farm C corporations with gross receipts of $30M or less.
- **Farm Machinery Depreciation**: 5 years for new, 200% DBM

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NET INVESTMENT INCOME TAX

- The TCJA did not modify the provisions of the net investment income tax. It remains a 3.8 percent tax on net investment income for taxpayers with income that exceeds a statutory threshold amount. The income threshold for the NIIT is not adjusted for inflation.

Filing Status	Threshold Amount
Married filing jointly	$250,000
Married, filing separately	$125,000
Single	$200,000
Head of household (with qualifying person)	$200,000
Qualifying widow(er) with dependent child	$250,000

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Estate & Gift Tax Update

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Exemptions Over Time

1997 = $600,000
1998 = $625,000
1999 = $650,000
2000 and 2001 = $675,000
2002-2009 = $1.0 million
2010 = $5 million or opt out with no step up
2011 = $5.0 million
2012= $5.12 million
2016 = $5.45 million
2017 = $5.49 million
2018 = $11.2 million
2019 = $11.4 million
2020 = $11.58 million
2021 = $11.7 million
2022 = $12.06 million
2023 = $12.92 million
2024 = $13.61 million

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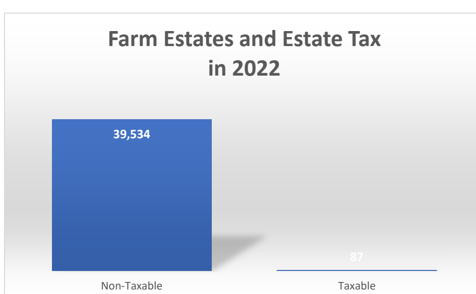
Very Few Farm estates Pay it Today

- The USDA-ERS recently estimated that of the projected 39,534 estates created from principal farm operator deaths in 2022, only 305 (0.77 percent) will be required to file an estate tax return, and only 87 (0.22 percent) will likely owe Federal estate tax.



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But Higher Exemption is Ending Soon…

- Increased exemption amount was created by the TCJA.
  - It was only temporary, through December 31, 2025.
- **In 2026, the exemption resets to $5 million, indexed for inflation (~$7 million).**

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Soil Fertility

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TAM 92110007

1. Establish the presence and extent of the fertilizer;
2. Show the level of soil fertility attributable to fertilizer applied by the previous owner;
3. Provide a basis upon which to measure the increase in fertility in the land; and
4. Provide evidence indicating the period over which the fertility attributable to the residual fertilizer will be exhausted.

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Discussion Points

- If you look at the requirements of TAM 9211007 the farmer needs to establish evidence of how long it will take to exhaust the excess fertility.
- Minnesota Department of Revenue has aggressively audited this issue.
- This issue is on IRS's radar.

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Discussion Points

- MNDOR's interpretation of the TAM is that Soil fertility needs to be treated as a depletion deduction. In other words, you don't get a deduction until you can show the fertility levels are decreasing. This will require at least two soil tests…. probably more over a period of years.

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Discussion Points

- The only scenario I have found to work without fail is if the excess fertility is listed in the purchase agreement. That way, the seller is getting ordinary treatment for the sale of the fertilizer, and the buyer can deduct the fertility at the time of purchase. This hardly ever happens because the seller wants capital gain treatment.

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Discussion Points

- Promoters are pushing this deduction for prior year's land purchases.
  - Taking the deduction as an amortization expense using Form 3115.

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Tax Planning

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Declining net Farm Income

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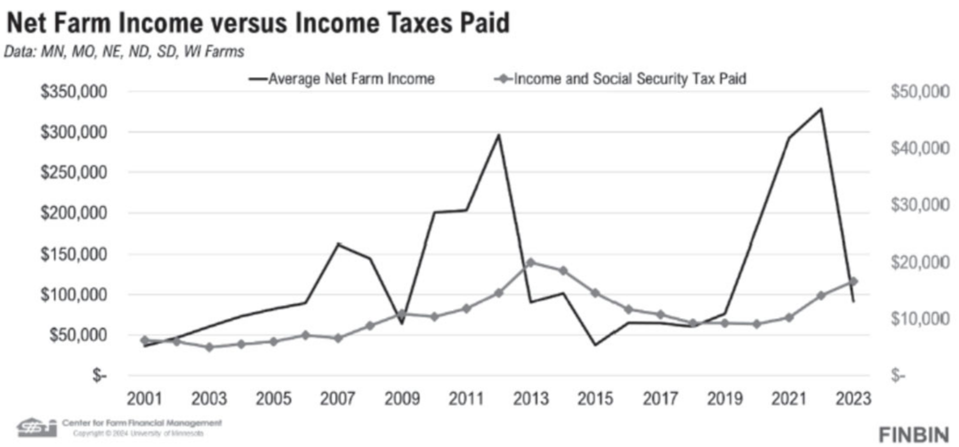

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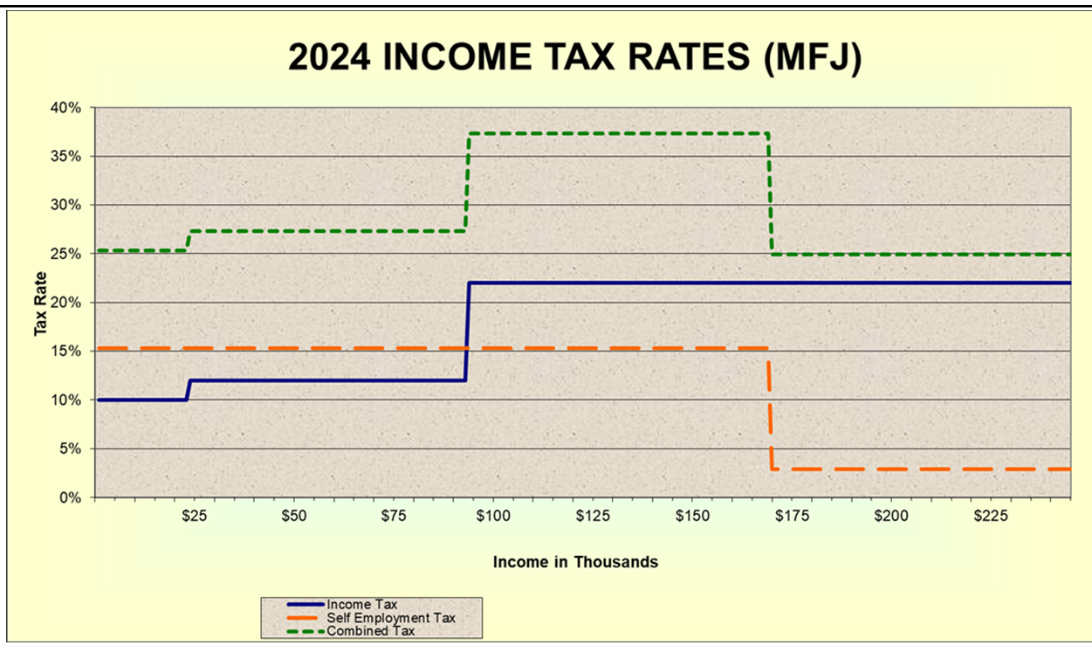

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Tax Planning for Low-Income Year

- Amortize Fertilizer Expense
- Postpone Expenses
- Advance Sales
- CCC Loan (Now called Market Assistance Loans)
- Election to Capitalize Repairs

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Net Operating Losses (NOLs)

- Post 2020 Farm Losses may be carried back two years or carried forward indefinitely (waive the carryback).
- Tax Cuts and Jobs Act limits the NOL deduction to 80% of taxable income.
- If the farmer is going to carry the NOL forward, they need to elect to waive the carryback.

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Tax Planning Strategies (High Income)

- Pre-Pay Expenses
- Income Averaging
- Deferral of Income
  - Crop and/or Livestock sales
- Accelerated Depreciation
  - Section 179 and Bonus
- Crop Insurance Deferral

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Prepaying expenses

- Cash basis deduction generally limited if useful life beyond end of tax year
- 12-month rule provides an exception if benefits do not extend beyond the ***earlier of***
  - 12 months after the benefit begins, or
  - the end of the following tax year
- Example: One-year insurance premium paid in November is okay
- Planning Note - No prepaid interest, only to year-end

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Prepaid farm supplies exception and limit

- Special exception provided under I.R.C. § 464
- Prepaid farm supplies may still be limited to 50% of all other expenses
  - ➢ Unused due to fire, storm, flood, etc. won't be counted
- Limit doesn't apply to taxpayer who
  - Is a *farm-related taxpayer* and
  - Has total prepaid farm supplies for the preceding 3 years of less than 50% of all other expenses *or*
  - Exceeds limit due to unusual change in business operations

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Prepaid farm supplies

3-part test for prepaid expense deduction

1. **Payment, not deposit**
   - Facts and circumstances
   - Specific quantity at fixed price
2. **Valid business purpose**
   - Fixing price and supply
3. **No material distortion of income**

➢ Remember other expenses!

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Income Averaging

- Filed on Schedule J
- Allows taxpayers to utilize unused tax brackets from past years

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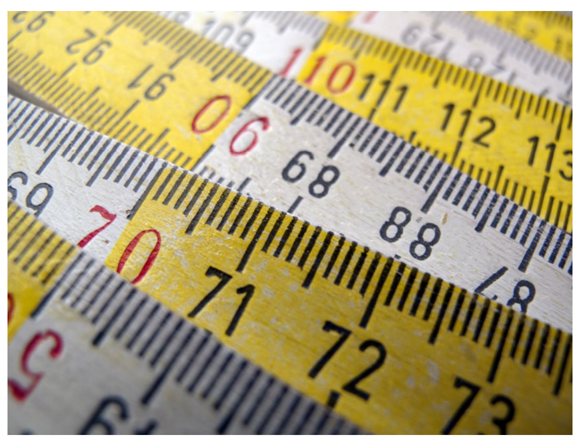
Income Averaging

- Only farm income qualifies
- Does not affect:
  - Self-employment income
  - Taxable income



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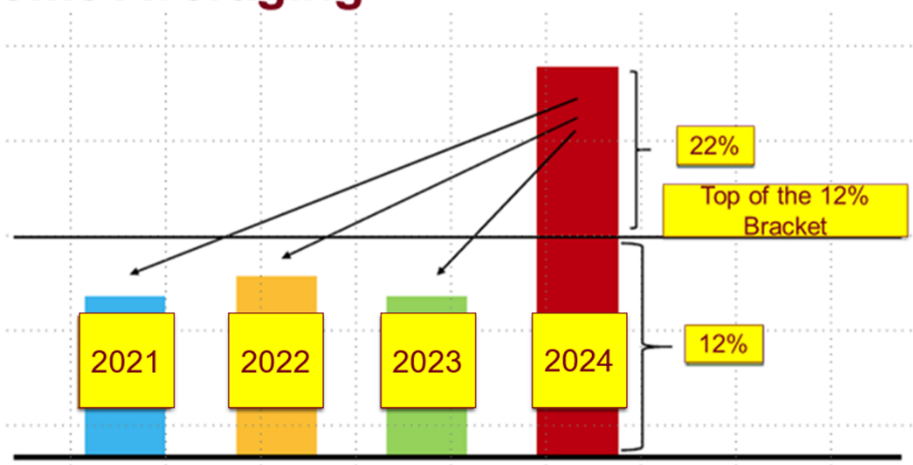
Income Averaging



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Defer Crop and Livestock Sales

- Postpone sales into next year. Income is taxable upon receipt.
  - Constructive receipt rules
- Transfer of ownership and telling the buyer to hold the check does not work. Must do a deferred payment contract (next slide).

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Deferred Sales (Deferred Sales Contract)

- Allowed under installment sale rules
- Producer must have binding contract with buyer
- No constructive receipt of income
- Consider setting up multiple contracts
- Seller is unsecured creditor
  - Risk if buyer goes out of business before payment

Depreciation

- Section 179
  - Class life 3-15 qualifies
  - 2024 Max. is $1,220,000
  - Qualifying Purchase limit = $3,050,000
    - Above purchase limit, dollar-for-dollar reduction of allowable expense.
    - Related party rules (prohibited for lineal descendants).

Depreciation

- Bonus Depreciation (Additional first-year depreciation)
  - Class life 3 to 20-year property qualifies
    - New or Used (must be Qualifying Acquisition)
  - For 2024, 60% deduction
  - Default is to take bonus. Must elect out by class life.
  - Related party rules are the same as Section 179

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Deferral of Crop Insurance

- Cash basis farmers can defer income, planning is important.
  - Deferral election applies to destruction or damage to crops that results in an insurance or disaster payment.
    - I.R.C. § 451(f); Treas. Reg. § 1.451-6(a)

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Deferral of Crop Insurance

- Report income on cash basis
- Establish that under normal business practice, income from crops would have been reported in following year.

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Deferral of Crop Insurance

- Rev. Rul. 74-145 requires taxpayer to show that more than 50% of income from <u>**each**</u> damaged crop(s) would be reported in the following year.
  - *Nelson v. Commissioner* (2008)

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Tax Planning Example

At the beginning of tax planning, the farmer brings in their accounting records, and they have a projected schedule F of $200,000. After taking regular deductions (standard deduction, qualified business income deduction, and half the SE tax), the income tax liability is as follows.

- Taxable Income = $126,135
- Federal Tax = $17,856
- Self-Employment Tax = $26,262
- Total Tax = $44,118
- Marginal Tax Rate = 22%

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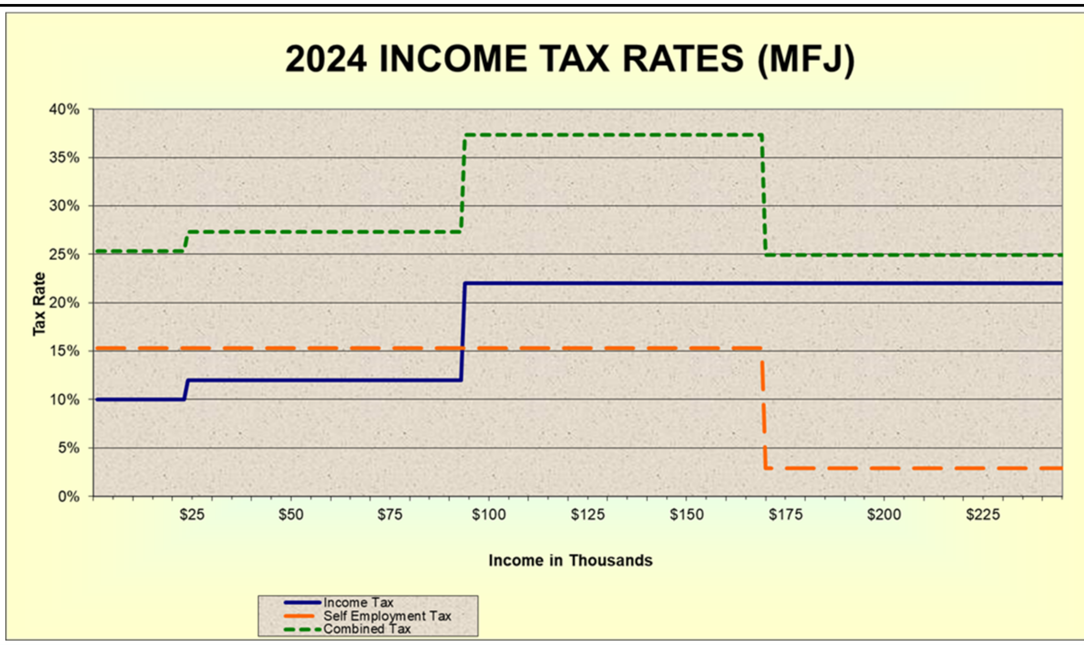

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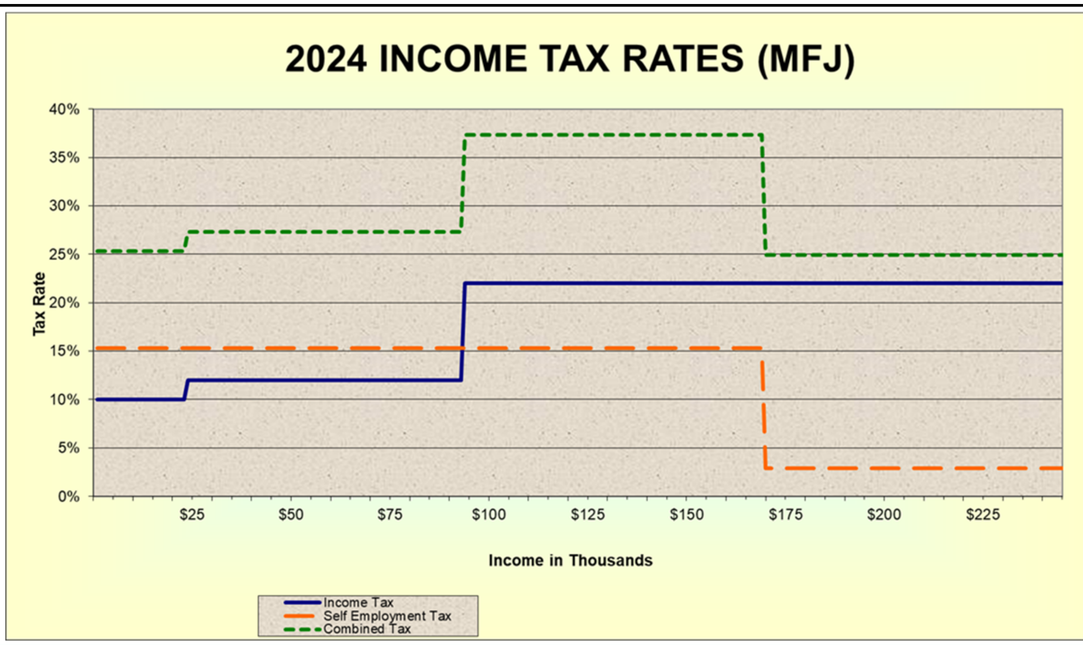
Tax Planning Example (Continued)

To mitigate this income tax liability, the producer is going to pre-pay $20,000 of 2025 crop inputs and is also going to take $22,000 of Section 179 on a recently purchased piece of equipment. This adds $42,000 to the current farm expenses and reduces schedule F to $158,000. After the additional expense, the tax liability is:

- Taxable Income = $94,110
- Federal Tax = $10,831
- Self-Employment Tax = $22,324
- Total Tax = $33,155
- Marginal Tax Rate = 12%



Tax Planning Example (Continued)

The net change to the tax liability is listed below.

- The farmer spent an additional $42,000 in pre-payment and accelerated depreciation.
- The farmer cut the tax bill by $10,963.
- The farmer saved $0.261 of tax for every dollar of pre-payment and accelerated depreciation.
- Qualified Business Deduction (QBI) was reduced with increased expenses.

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Contact Information

C. Robert (Rob) Holcomb, EA

Extension Educator, Agricultural Business Management

University of Minnesota Extension

Email: ***holcombr@umn.edu***

Phone: 507-258-8754

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