2023 Last-Minute Year-End Tax Strategies for Your Stock Portfolio

Big Picture

Here are the seven basic tax rules you need to know to find the tax savings you desire in your stock portfolio:

1. On your short-term capital gains and ordinary income, you pay federal income taxes at rates of up to 40.8 percent. The 40.8 percent comes from the top income tax rate of 37 percent plus the
3.8 percent Affordable Care Act tax on net investment income (technically known as the net investment income tax, or NIIT).

2. You pay taxes on your long-term capital gains at rates from 0 to 23.8 percent (20 percent for capital gains plus 3.8 percent NIIT), depending on your income level.

3. You pay taxes on your stock dividends at rates from Oto 23.8 percent, depending on your income level.

4. Suppose your capital losses exceed your personal capital gains. In that case, the tax code limits your capital loss deductions to $3,000 and allows you to carry over losses above the $3,000 to future years until realized.

5. You first offset long-term gains and losses before you offset short-term gains and losses.

6. You donate appreciated stock to charity.

7. You do not donate stock that would produce a tax loss

Here are seven possible tax planning strategies.

Strategy 1: Properly Offset Gains and Losses

Examine your portfolio for stocks you want to unload and make sales where you offset *short-term* gains subject to a high tax rate, such as 40.8 percent, with *long-term* losses (up to 23.8 percent).

Strategy 2: Properly Use Long-Term Losses

Use *long-term* losses to create the $3,000 deduction allowed against ordinary income.

Again, you are trying to use the 23.8 percent loss to kill a 40.8 percent tax (or a 0 percent loss to kill a 12 percent tax if you are in an income tax bracket of 12 percent or lower).

Strategy 3: Avoid the Wash-Sale Rule

As an individual investor, you should avoid the wash-sale loss rule.

Under the wash-sale loss rule, if you sell a stock or some other security and then purchase substantially identical stock or securities within 30 days before or after the date of sale, you don't recognize your loss on that sale.[1] Instead, the tax code makes you add the loss amount to the basis of your new stock.

If you want to use the loss in 2023, then you'll have to sell the stock and sit on your hands for more than 30 days before repurchasing that stock.

Strategy 4: Don't Die with Loss Carryovers

If you have lots of capital losses or capital loss carryovers and the $3,000 allowance is looking extra tiny, sell additional stocks, rental properties, and other assets to create offsetting capital gains.

If you sell stocks to purge the capital losses, you can immediately repurchase the stock after you sell it- there's no wash-sale "gain" rule.

Don't die with large capital loss carryovers-they'll disappear.[2]

- If your carryover originated from you only, then it all goes away if not used on your joint return in the year of your death.
- If your carryover came from joint assets, then your surviving spouse gets 50 percent of the carryover to use going forward.

Strategy 5: Make Use of Lower Tax Brackets

Do you give money to your parents to assist them with their retirement or living expenses? How about your children (specifically, children not subject to the kiddie tax)?

If so, consider giving appreciated stock to your parents and your non-kiddie-tax children. If the parents or children are in a lower tax bracket than you are, you get a bigger bang for your buck by

- gifting them stock,
- having them sell the stock, and then
- having them pay taxes on the stock sale at their lower tax rates.

You also get a similar family benefit if your parents or children hold the stock for the dividends and then pay taxes on those dividends at their lower tax rate.

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Strategy 6: Donate Appreciated Stock to Charity

If you are going to make a donation to a charity, consider appreciated stock rather than cash, because a donation of appreciated stock gives you more tax benefit.[4]

It works like this:

- **Benefit 1.** You deduct the fair market value of the stock as a charitable donation.[5]
- **Benefit 2.** You don't pay any of the taxes you would have had to pay if you sold the stock.

Example. You bought a publicly traded stock for $1,000, and it's now worth $11,000. If you give it to a 501(c)
(3) charity, the following happens:

- You get a tax deduction for $11,000.
- You pay no taxes on the $10,000 profit.

Two rules to know:

1. Your deductions for donating appreciated stocks to 501(c)(3) organizations are not allowed to exceed 30 percent of your adjusted gross income.[6]
2. If your publicly traded stock donation exceeds 30 percent, no problem. Tax law allows you to carry forward the excess until used, for up to five years.[7]

Strategy 7: Don't Donate Stock Losses to Charity

If you could sell a publicly traded stock at a loss, *do not* give that loss-deduction stock to a 501(c)(3) charity. If you sell the stock, you have a tax loss that you can deduct. If you give the stock to a charity, you get no deduction for the loss.

Solution. Sell the stock first to create your tax-deductible loss. Then give the charity the cash realized from your sale of the stock to create your deduction for the charitable contribution.

1 IRC Section 1091.
2 Rev. Rul. 74-175.
3 IRC Section 1(h)(1); Rev. Proc. 2022-38.
4 IRC Section 170(e)(5).
5 Ibid.
6 IRC Section 170(b)(1)(C)(i).
7 IRC Section 170(b)(1)(C)(ii).