Outlined in this document are a few income tax considerations that may potentially help some taxpayers modify their income tax obligations. Because U.S. Bank and its representatives do not provide tax or legal advice, this list is not intended to provide income tax, accounting or legal advice of any kind. Your tax and financial situation is unique. If you are interested in exploring any of these outlined considerations, you should consult your tax and/or legal advisor for advice and information concerning your particular situation.

Commonly used income tax considerations

• **Available deductions.** Income tax deductions reduce a taxpayer’s taxable income and thus may reduce the overall tax liability. These deductions (both “adjustments to income” and traditional “itemized deductions”) cover a wide array of tax-favored items and most taxpayers may have access to at least some of these deductions. The following is a simple, non-exhaustive list of payments and expenditures a taxpayer makes that may be deducted:
  − Taxes paid to another jurisdiction (including state and local income or sales tax)
  − Mortgage interest
  − Gifts to charity
  − Business expenses
  − Medical expenses

• **Income deferrals.** The federal tax code allows taxpayers with earned income the limited ability to defer some of their ordinary income as savings for retirement. The tax code specifically recognizes qualified tax deferral accounts, such as individual retirement arrangements (IRAs) and simplified employee pension (SEP) IRAs, as well as qualified employer sponsored plans, such as 401(k)s, 403(b)s and 457s, as special “qualified” tax deferral mechanisms. Generally speaking, a taxpayer may not pay taxes on the contributions to a qualified plan or the growth of a qualified plan, but may instead pay taxes when funds are withdrawn in retirement. However, a taxpayer’s ability to defer income with a qualified savings mechanism may be subject to caps on contributions and deductibility.

• **Prior year contribution for an IRA or SEP IRA.** The tax code may allow a contribution to a qualified retirement savings instrument (such as IRA or SEP IRA) to apply against a taxpayer’s income from the prior year if the contribution is made ahead of certain deadlines in the present year. For prior year contributions to an IRA, the deadline is April 15. For prior year contributions to a SEP IRA, the deadline is the date that the employer’s tax return is due, which may be as late as October 15. By making a prior year contribution ahead of the deadline, a taxpayer may be able to defer a portion of his or her prior year’s income.

• **Workplace cafeteria plans.** Some taxpayers may have access to tax deductible compensation options through their employers via “cafeteria plans.” The deductions available in these plans may not be substantial by themselves, but added together, they can offer significant “above-the-line” deductions that shield income from inclusion in Adjusted Gross Income (AGI). Examples of the above-the-line deduction items in a cafeteria plan may include:
  − Health Savings Account (HSA): $6,750 family or $3,350, plus $1,000 catch-up contribution for those over the age of 55
  − Health Care Flexible Spending Accounts: $2,550
  − Qualified Transportation Fringe Benefits: $255 per month transit pass or parking
Less commonly known income tax considerations

- **Section 83(b) election.** Grants of restricted stock are a form of compensation for services that may result in ordinary income to the taxpayer who earns them. However, a taxpayer may have a choice as to when to realize the ordinary income from such restricted stock grants. The standard choice (and default choice under the tax code) is to realize income when the restricted stock vests, with the taxable gain being the value of the stock at vesting, less any amount paid for the stock. This standard choice may defer tax and potentially help ensure that the taxpayer may have enough cash to pay the resulting tax, even if doing so requires sale of the stock. The taxpayer may also make a 83(b) election that essentially causes the taxpayer to be taxed on the restricted stock when the grant is made, rather than when it vests. Under this option, the taxable gain is the value of the stock on the date of the grant, less any amount paid for the stock. With a 83(b) election, there may not be an effective tax deferral and the taxpayer may have to find other sources of liquidity with which to pay the tax. Additionally, there is a risk that the stock may not vest or that its value may decline prior to vesting. However, if the stock value is expected to increase substantially between the grant date and vesting date, the taxpayer may stand to save substantial income tax by realizing the gain on the lower value of the stock (grant value) rather than the upper value of the stock (vesting value).

- **Net operating loss.** A net operating loss (NOL) arises when a business posts a net loss (instead of net income) for a taxable year. With many closely held business structures, such as S-Corps and partnerships, this NOL may pass through the business entity to the individual taxpayer. While businesses generally tend to not seek out NOLs, a NOL in the hands of an individual taxpayer can be a valuable commodity, because a NOL may provide an individual with a deduction against taxable income. Moreover, unlike a capital loss, a NOL may be used to offset an uncapped amount of ordinary income. Also, a NOL does not have to be used only in the current year, but may be “carried-back” to offset income in two prior years and/or “carried-forward” for up to 20 years to offset future income. Thus, the NOL may offer tremendous flexibility to reduce taxable income in the past, present and future in the manner most efficient for a taxpayer.
• **Tax credits.** Certain states may issue transferable credits against state income tax. These transferable tax credits may be earned by certain taxpayers (usually corporations) for performing services requested or encouraged by a state. Such a credit-earning taxpayer may often receive more tax credits for its services than it will have in taxable income. The taxpayer may then sell the surplus tax credits to third parties. These tax credits may be bought by intermediate brokers (including U.S. Bank) who sell them to other taxpayers who may want to reduce their state income tax liabilities.

• **Charitable intermediaries and large realization events.** When a taxpayer sells a valuable capital asset, the taxpayer may realize a taxable gain on the difference between the sale price and the cost basis of the asset. This taxable gain may be especially sizeable if the asset has been previously depreciated with a depreciation deduction. Moreover, any depreciation of the asset may be “recaptured” upon the sale of the asset and will be taxed as ordinary income, not capital gains. Furthermore, most taxpayers may realize all of the gain from the sale in the year that the sale is completed, potentially resulting in the taxpayer being in an unduly high income tax bracket for one year.

A taxpayer may find some tax relief from the sale of a capital asset by first contributing the asset to a charitable trust — either a charitable remainder unitrust (CRUT) or a charitable remainder annuity trust (CRAT) — and allowing the charitable trust to sell the asset instead. In such a case, the taxpayer may receive a charitable deduction upon the contribution of the asset, and the tax-exempt charitable trust may not be taxed on the gain from the sale of the asset. The charitable trust can invest the full proceeds from the sale, which may grow tax-free while in the trust, and distribute payments back to the taxpayer over time. The distributions may be taxable to the taxpayer, but may be structured so as to not push the taxpayer into an uncomfortably high tax bracket. Over time, the aggregate payments from the charitable trust may exceed the amount the taxpayer would have received had he or she realized a taxable gain from the sale of the asset and invested the proceeds on his or her own.