



# 2025 WICPA TAX CONFERENCE

YOUR SOURCE FOR KEY UPDATES & INSIGHTS ON TIMELY ISSUES

## HIGHLIGHTED TOPICS:



### WISCONSIN TAX UPDATE

Get the latest updates on Wisconsin case law as well as recent legislative and administrative developments that have occurred in the past year



### HOT TAX PRACTICE & PROCEDURE & ETHICS ISSUES

Get the latest "hot" IRS practice and procedure and ethics issues, along with mistakes practitioners should avoid



### FEDERAL TAX UPDATE: UNPACKING OBBA

Take a deep dive into the One Big Beautiful Bill Act and learn what matters most to your clients

MONDAY, NOV. 10 & TUESDAY, NOV. 11  
BROOKFIELD CONFERENCE CENTER & WICPA CPE LIVESTREAM

## MATERIALS AT A GLANCE

The following materials are from the Tuesday afternoon sessions of the 2025 WICPA Tax Conference held on Monday, Nov. 10 & Tuesday, Nov. 11, including:

- One Big Beautiful Bill Act: Its Effect on Life Insurance Policies in Estate Planning
- SALT Essentials: Making Sense of State & Local Taxation
- The One Big Beautiful Bill: 8 Key Takeaways for Estate Planners

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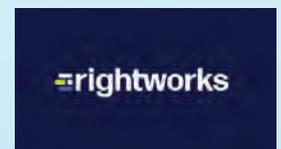
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75%

of accounting firms believe they would only be able to survive **three to seven days** after a ransomware attack.

Source: [www.cpapracticeadvisor.com](http://www.cpapracticeadvisor.com)



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# 75%

of accounting firms believe they would only be able to survive **three to seven days** after a ransomware attack.

Source: [www.cpapracticeadvisor.com](http://www.cpapracticeadvisor.com)

CPA firms are increasingly targeted due to their access to sensitive financial information. Since 2014 reported data breaches of CPA firms have increased **over 80%** with ransomware extortion incidents rising to **over 40%** since 2018.

## Choosing Ontech to manage your CPA firm's IT & protect your data can offer several advantages:

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- Proactive Monitoring and Support:** We provide continuous monitoring to detect & respond to potential threats quickly. This proactive approach minimizes downtime and keeps your operations running smoothly.
- Customized Solutions:** Our team offers tailored IT solutions to meet the specific needs of CPA firms. This includes secure cloud services, data backup and recovery, and network management.
- Training and Awareness:** They also provide training for your staff to recognize and respond to cyber threats, enhancing your firm's overall security posture.

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# FTC SAFEGUARD CHECKLIST

WHO'S AFFECTED & WHAT'S REQUIRED



The **FTC Safeguards Rule** applies to “**financial institutions**”, including:



Car Dealerships



Retailers



Tax Preparers



Accounting Firms



Loan Companies



Any Business **Collecting Financial Data!**

## Here's What's Required To Stay Compliant:

- Designate a Qualified Individual**  
Assign someone (**internal or outsourced**) to be responsible for your information security program.

- Conduct a Risk Assessment**  
Identify internal and external risks to customer data. This is ongoing, **not a one-time event!**

- Train Your Team**  
Security is everyone's responsibility, so your employees need ongoing training on data protection and phishing awareness. **We can help with this!**

- Monitor Your Service Providers**  
If you outsource IT, payroll, marketing, or data processing, **those vendors must also comply.**

- Keep It Updated**  
**Regularly review** and **adjust** your security program as your business or threats evolve.

- Implement Safeguards**  
Based on your risk assessment, put the right controls in place. **These typically include:**
  - Access controls (who can access what, and why)
  - Encryption of customer data
  - Multi-Factor Authentication (MFA)
  - Secure data disposal policies
  - Logging and monitoring access and activity

- Create an Incident Response Plan**  
Be ready with a plan if (**or when**) a data breach occurs. The FTC expects a **structured response strategy.**

## Why It Matters: *Non-compliance can lead to:*

- Hefty fines
- Damaged reputation
- Loss of trust with customers

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\*based on 2020 Client Retention Rates

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FALL CONFERENCE

SEPT.  
16

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NOV.  
10-11

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CONFERENCE

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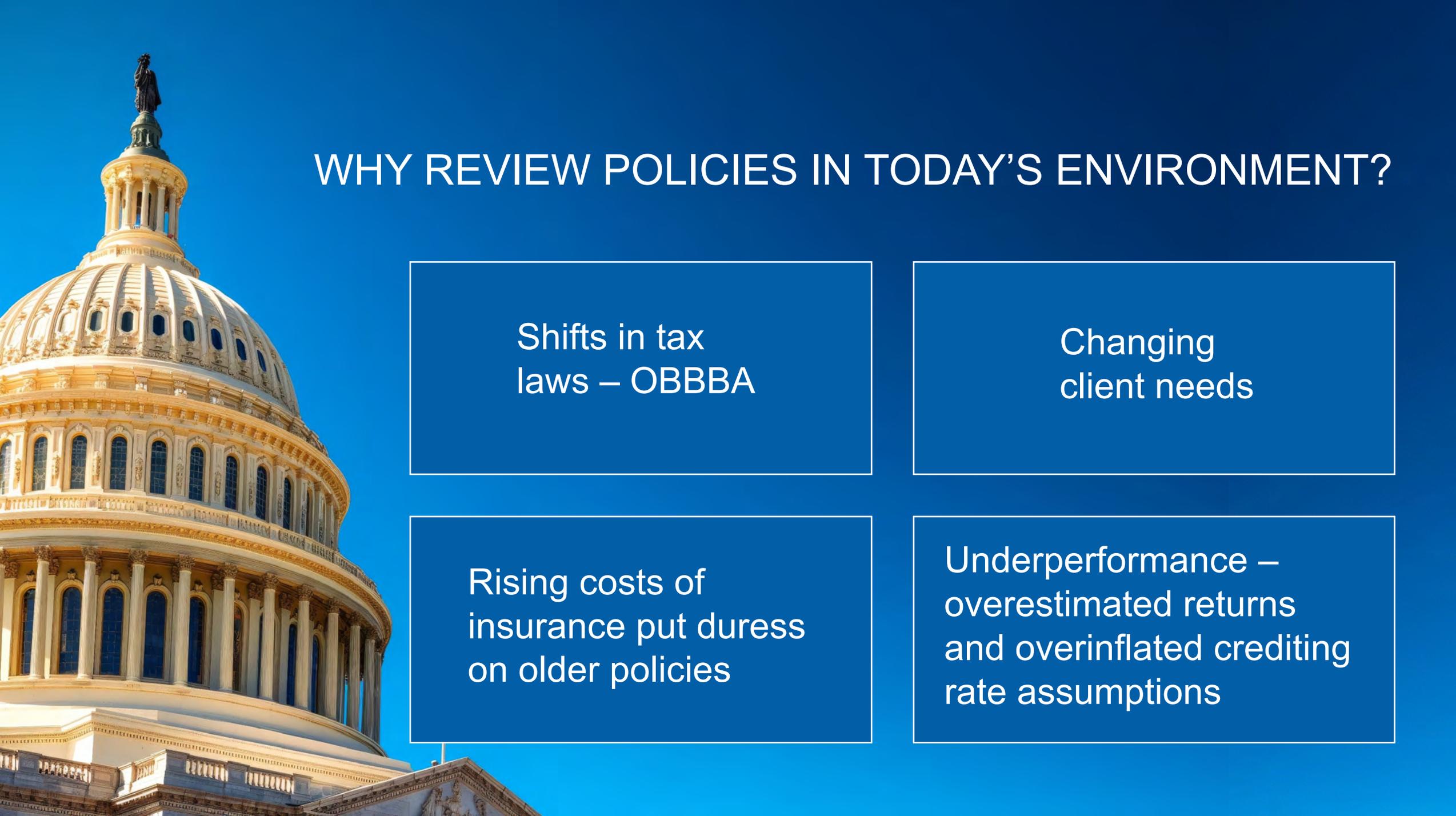




# BIG BEAUTIFUL TAX ACT

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WHAT TO DO WITH UNNEEDED OR UNDERPERFORMING POLICIES



# WHY REVIEW POLICIES IN TODAY'S ENVIRONMENT?

Shifts in tax laws – OBBBA

Changing client needs

Rising costs of insurance put duress on older policies

Underperformance – overestimated returns and overinflated crediting rate assumptions



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- Private Wealth Advisers partners with Valmark as internal specialists to work with insurance and life settlement solutions.
- Valmark has paid over \$300M cash proceeds to clients in past 25 years.
- Michael leads the Valmark Financial Group Licensed Life Settlement Brokerage and Policy Management Company.
- The team performs insurance policy reviews and actively manages 1,000s of policies for clients, insurance agents, trustees, CPAs, and other professionals.



# AGENDA

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- 1 | What are your clients' options?
- 2 | What are the tax implications of keeping or selling a policy?
- 3 | What are the implications of Connelly and why is Policy Management so important?
- 4 | Real life scenarios: when to hold and when to fold

## CLIENT SCENARIO



**IMAGINE...**

- You have a client who is 84 years old.
- She purchased a \$2M Variable Universal Life policy 30 years ago, held in an Irrevocable Trust (ILIT).
- No previous reviews...until now.
- **We uncovered the policy will lapse within 2 years if no action is taken.**

**END THE POLICY**

**KEEP THE POLICY**

Keep policy  
as is

Restructure

Surrender

Exchange into  
new policy

Alternative  
Funding

Gift or  
Transfer

Exchange  
into annuity

Life  
Settlement



1. Continue the coverage at \$40k/yr.  
Policy will lapse in 2 years at age 86.
2. Increase premium to \$218,783/yr.  
5X increase, extends coverage to 91.
3. Decrease death benefit, maintain current premium.  
Reducing DB to \$600k extends coverage to age 88 at \$40k/yr.
4. Pay Cost of Insurance each year – year 1 premium \$135k/yr.  
Annual cost will increase each year.



1. Replacement coverage.  
Age and health likely prohibitive.
2. Surrender policy for the current value of \$123,571.  
Potential tax issues and loss of the cost basis.
3. Sell policy via a Life Settlement.  
\$350K – \$633K offer estimate. Need 4-6 months to determine final offer.
4. Exchange into variable annuity.  
Tax-deferred growth, avoid tax on surrender, higher expenses.



## CAROL'S STORY | AGE 84

- Carol bought a \$2M life insurance policy 30 years ago.
- Due to increased costs, her coverage duration was reduced.
- The policy was in danger of lapsing within two years.

Client name has been changed to protect confidentiality. | Each client's experience varies. This material is intended for informational purposes only and should not be construed as legal or tax advice or investment recommendations. Consult a qualified attorney, tax advisor, investment professional.

## POLICY DUE TO LAPSE PREMATURELY UNLESS CORRECTIVE MEASURES ARE TAKEN

### POLICY TYPE

\$2M Flexible Premium Variable Life

### SITUATION

- Increased costs of insurance reduced coverage duration; policy due to lapse in two years

### OPTIONS

- Exchange policy into a variable annuity for retirement income – Estimated \$123,000 of surrender value
- Sell the policy for \$350K – \$630K via a life settlement
- Reduce the death benefit to continue coverage longer

### OUTCOME

- Client delayed decision for two years; no options pursued
- Policy lapsed unintentionally due to lack of premium



# IMPORTANT TAX CONSIDERATIONS

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TRANSFER RULES



# BASIC TAX RULES OF LIFE INSURANCE

**1 KEEP THE POLICY**  
Tax-free death benefit  
Tax-free loans

**2 REPLACEMENT**  
Tax-free 1035 Exchange  
New insurance policy  
Annuity  
Long-term care

**3 LIFE SETTLEMENT**  
Taxable above basis  
Liquidity created above CSV

**4 GIFT OR TRANSFER**  
Fair market value  
Transfer for value rules

## When You Transfer An Existing Policy To An ILIT



# TRANSFER RULES

### **PART 1:** FMV of a Life Insurance Policy For Gift Taxes

- It is considered a gift for federal tax purposes
- You must value the policy at the time of transfer
- This is typically done via the “Fair Market Value (FMV)” as provided by regulatory guidance:
  1. Cost – Newly Issued policies only, <1yr
  2. Replacement Cost – Paid up or Single Premium Policies
  3. Interpolated Terminal Reserve (ITR) – In-force for some time and requires further premium payments
- Because it's a gift, the value of the policy reduces your lifetime gift and estate tax exemption
- If you exceed your available exemption, gift tax could apply
- **NOTE: §2035, There is a 3-year look back rule on gifts of property (including life insurance) back into the original owner's estate**



# TRANSFER RULES

## **PART 1:** FMV of a Life Insurance Policy For Gift Taxes

### When a Business Transfers a Policy to a Shareholder, Employee, Or Owner

#### IF YOU'RE A SHAREHOLDER (C-CORP OR S-CORP):

- The transfer is typically treated as compensation or a constructive dividend
- The FMV of the policy, per §83, the greater of ITR or Premiums + Earnings + Reasonable Charges (PERC) becomes:
  - Taxable income to you personally
  - And a deductible expense to the business (only if treated as compensation and you are an employee)
- If it's a C-Corp, the IRS may treat it as a dividend, which is taxable to you but not deductible by the corporation
- Gain is recognized at the corporate level as a “deemed sale”



## JEAN'S STORY | AGE 72

- Recent steep increase in premiums was a problem
- Needed money for retirement and long-term care coverage
- A 1035 exchange enabled her to have affordable life AND LTC coverage

## POLICYOWNER REDEPLOYS ASSET FOR A NEW POLICY

### EXISTING LIFE INSURANCE

|                      |                     |
|----------------------|---------------------|
| Policy Type          | \$1M Universal Life |
| Annual Premium       | \$50,000 / year     |
| LTC Benefit          | \$0                 |
| Cash Surrender Value | \$60,000            |
| Death Benefit        | No longer needed    |

### 1035 EXCHANGE

### NEW HYBRID LTC POLICY

|                      |           |
|----------------------|-----------|
| Annual Premium       | \$0       |
| LTC Benefit          | \$251,000 |
| Cash Surrender Value | \$60,000  |
| Death Benefit        | \$83,000  |

Client name has been changed to protect confidentiality. | Each client's experience varies. This material is intended for informational purposes only and should not be construed as legal or tax advice or investment recommendations. Consult a qualified attorney, tax advisor, investment professional.



# TRANSFER RULES

## PART 2:

Transfer for Value  
Whether the  
Death Benefit  
Remains Tax-Free

## Transfer-For-Value Rule | IRC §101(a)(2):

### DISTINCT FROM GIFT TAX RULES

- If a life insurance policy is transferred for valuable consideration, the death benefit in excess of premiums paid will become taxable
- First, is the transactional “Reportable Policy Sale” as outlined in §101(a)(3)? If no, proceed to Step 2 of the test (any consideration paid)
- Exempted persons: This rule does not apply if the transfer is to:
  - The Insured (or insured spouse)
  - A Partner of the Insured
  - A Partnership or Corporation in which the insured is a partner or shareholder
  - The Insured’s Grantor Trust



# TRANSFER RULES

**PART 2:**  
Transfer for Value  
Whether the  
Death Benefit  
Remains Tax-Free

## Transfer-For-Value Rule | IRC §101(a)(2):

- While transfer-for-value is often avoided in business succession planning, the policy's Fair Market Value (FMV) at the time of the transfer is still taxable to the receiver as income
- The IRS generally views this as compensation from your employer
- So, the FMV of the policy (typically based on ITR or FMV) is:
  - Taxable to you as ordinary income
  - Not a gift, because it's employer-to-employee
  - Not deductible by the employer unless structured as income
  - Considered a "deemed sale" at the corporate level with recognition of any gain in the contract



THE ONE

BIG, BEAUTIFUL

BILL ACT

- Permanent estate tax exemption of \$30.2M
- Eliminates estate tax concerns for most business owners...
- And potential need for insurance purchased for estate tax liquidity



# TAKEAWAYS FOR ADVISORS

Transfer taxes should be considered when ending a policy

Estate tax exemption leads to coverage no longer serving its original purpose

Changing client circumstances, tax laws, and aging policies demand review

Policies require active management

**CONNELLY**

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**IMPLICATIONS FOR  
LIFE INSURANCE**



## SUMMARY

The Supreme Court (Docket 23-146) affirms that a corporation's commitment to buy back shares from a deceased shareholder at fair market value **“does not necessarily”** count as a liability that would reduce the corporation's value for federal estate tax purposes.

Co. Value while both owners are still living



Co. Value after death of owner

Life Insurance Proceeds

- Surprisingly, Connelly\* does not create new law
- Generally, the value of the business is increased by receipt of the insurance proceeds
- There is generally\* no offset of corporate obligations created under the redemption agreement
- Could have avoided this using another structure, such as Cross-Purchase Agreement or Insurance LLC

\**Connelly v. United States*, U.S., No. 23-146(2024), affirming 70 F.4th 412 (8th Cir. 2023).

**BUT...WHAT DO THEY MEAN BY “DOES NOT NECESSARILY”?**

# DEDUCTION FOR LIABILITIES?

Shareholder A owns 50% and dies with mandatory redemption of her 50%...

## THE PLAN

Assets  $\$10,000,000 \times 50\% = \$5,000,000$

Insurance  $\$5,000,000 \times 50\% = \$2,500,000$

Liabilities  $\$5,000,000 \times 50\% = \$2,500,000$

=  $\$5,000,000$

Estate Tax  
 $\$2,000,000$

## THE RESULT

Assets  $\$10,000,000 \times 50\% = \$5,000,000$

Insurance  $\$5,000,000 \times 50\% = \$2,500,000$

Liabilities  $\$0$

=  $\$7,500,000$

Estate Tax  
 $\$3,000,000$

# WHAT DO WE DO?

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How To Uncover Solutions For Your  
Business Owner Client's Coverage



## **BAND AID APPROACH**

Purchase more insurance

Increase in coverage can complement existing plan without having to make any changes

## **REDESIGN THE AGREEMENT**

Move the policy ownership outside of the company

Ownership may include a life insurance partnership

## **END THE POLICY**

Keep, cancel, or sell the policy

Sell the policy through a Life Settlement





**Regardless of your client's intent for the policy...**

**Motion Leads To Action: Business-owned policies need to be reviewed each time there is a change in the planning.**



1

Obtain a Third-Party Authorization to work with the insurance company on behalf of the policy owner

2

Contact the insurance company to request the necessary documents including statements, premium history, illustrations, etc.

3

Compare the current performance with the original design and current objectives – Document findings

4

Engage the policy owner and help them take action based on the review results

# Questions During a Policy Review



## Setup & Design

What are the long-term objectives?  
Is the policy meeting current needs?  
How should the policy be measured?



## Analyze & Assess

How is the policy performing?  
Are riders/features meeting expectations?  
Has anything changed in the client's situation?



## Recommend & Recalibrate

Does the policy align with objectives?  
What actions would improve the policy?  
Are there alternative options for the client?



## Monitor & Manage

Is the policy following the design?  
Are premiums being paid correctly?  
What inforce changes are needed?

# INSURANCE POLICY REVIEW



POLICY MANAGEMENT COMPANY

**PREPARED FOR:** Client's Family Irrevocable Trust

**PREPARED BY:** Valmark Policy Management Company

## POLICY SUMMARY

| Policy Information                       |   |                            |  |
|--|---|----------------------------|--|
| <b>Policy #:</b> #####Premium            | <b>Insured(s):</b> Valued Client                      |                            |  |
| <b>Issue Date:</b> 5/4/2006              | Valued Spouse   |                            |  |
| <b>Policy Year:</b> 10                   | <b>Owner:</b> Client's Family Irrevocable Trust       |                            |  |
| <b>Carrier:</b> John Hancock             | <b>Beneficiary:</b> Client's Family Irrevocable Trust |                            |  |
| <b>Product:</b> Survivorship UL          |   |                            |  |
| <b>Purpose:</b> Death Benefit Protection |   |                            |  |
| <b>Riders:</b> Additional Sum Insured    |   |                            |  |
| Current Values (as of 07/21/2016)        |   |                            |  |
| <b>Death Benefit:</b> \$500,000          | <b>Cash Value:</b> \$121,309.44                       | <b>Loan Amount:</b> \$0.00 |  |
| <b>Annualized Premium:</b> \$9,598.00    | <b>Surrender Value:</b> \$104,729.84                  | <b>Is Policy a MEC?</b> No |  |

## COMMENTARY

- Minimum premiums have been paid to date. In 2013, two annual premium payments were made.
- Assuming the client continues to pay the planned premium on time and in the correct amounts, the policy is guaranteed to age 120 of the younger insured as originally planned.
- Crediting rate dropped to 4.55% from original 5.25% but does not affect coverage guarantees.
- Current cash value is greater than projected due to an extra premium payment.

## RECOMMENDATIONS

- PMC Recommendation:** Recalibrate
- Consider reducing annual premium to \$8,492 per year through policy year 30 to guarantee policy to age 120 of the younger insured based on updated inforce illustration.
  - Discuss additional coverage if needed for estate preservation due to expired rider.
  - Complete a LADQ and market comparison every three years.

Carrier Ratings AM Best (1-16) S&P (1-20) Moody's (1-21) Fitch (1-19) STAR (1-5)  
(Best-Worst) A+ (2) AA- (4) A1 (5) AA- (4) 2 (4)

Prepared: 02/12/2019  
(1 of 3)

# INSURANCE POLICY REVIEW



POLICY MANAGEMENT COMPANY

## POLICY DESIGN

|  |   |
|--|---|
| <b>Purpose:</b> Death Benefit Protection | <b>Design Date:</b> 5/4/2006                |
| <b>Planned Changes:</b> No               | <b>Design Source:</b> Original Illustration |

## PREMIUM ANALYSIS

| LAST PREMIUM PAID: 6/13/2016        |                 |                 |           |
|-------------------------------------|-----------------|-----------------|-----------|
|                                     | Policy Design   | Current Plan    | Indicator |
| <b>Year 1 Lump Sum/1035:</b>        | \$18,420.00     | \$18,420.00     | ●         |
| <b>Annualized Premium:</b>          | \$9,598.00      | \$9,598.00      | ●         |
| <b>Premium Structure:</b>           | Through Age 100 | Through Age 100 | ●         |
| <b>Cumulative Premiums Paid:</b>    | \$123,998.00    | \$133,596.00    | ●         |
| <b>Difference (Paid - Planned):</b> |                 | \$9,598.00      | ●         |

## COVERAGE DURATION ANALYSIS

| Insured(s):                | Valued Client      | Valued Spouse      |
|----------------------------|--------------------|--------------------|
| <b>Age:</b>                | 82                 | 87                 |
| <b>Underwriting Class:</b> | Standard NonSmoker | Standard NonSmoker |

|   | Policy Design | Current Performance | Indicator |
|---|---------------|---------------------|-----------|
| <b>Guaranteed Coverage Age:</b>           | 120           | 120                 | ●         |
| <b>Projected Coverage Age:</b>            | 120           | 120                 | ●         |
| <b>Life Expectancy (Years):</b>           |               | 12.32               | ●         |
| <b>Probability of Outliving Coverage:</b> |               | 0.00%               | ●         |

## POLICY PERFORMANCE ANALYSIS

|                                | Policy Design | Current Performance | Indicator |
|--------------------------------|---------------|---------------------|-----------|
| <b>Death Benefit:</b>          | \$500,000     | \$500,000           | ●         |
| <b>Assumed Rate of Return:</b> | 3.00%         | 4.55%               | ●         |
| <b>Cash Value:</b>             | \$105,747.00  | \$112,510.00        | ●         |
| <b>Cash Surrender Value:</b>   | \$98,524.00   | \$105,287.00        | ●         |

- - Desired
- - Acceptable
- - Unacceptable

Prepared: 02/12/2019  
(2 of 3)

SAMPLE  
REVIEW



## RAY'S STORY | AGE 72

- Recently sold his successful tech company
- Needed additional life insurance to cover an increase in his estate tax liability

Client name has been changed to protect confidentiality. | Each client's experience varies. This material is intended for informational purposes only and should not be construed as legal or tax advice or investment recommendations. Consult a qualified attorney, tax advisor, investment professional.

# INSURANCE PORTFOLIO RESTRUCTURE IMPROVES COVERAGE

## CHALLENGE

- Needed more coverage for estate tax liability.
- Had 3 existing policies in need of attention. Policies were proprietary—difficult to get documentation in order to assess.
- Had medical issues and was likely uninsurable.

## 3-PART SOLUTION

**Policy Performance Evaluation™** completed for each policy to identify options.



## RAY'S STORY | AGE 72

- Recently sold his successful tech company
- Needed additional life insurance to cover an increase in his estate tax liability

Client name has been changed to protect confidentiality. | Each client's experience varies. This material is intended for informational purposes only and should not be construed as legal or tax advice or investment recommendations. Consult a qualified attorney, tax advisor, investment professional.

# INSURANCE PORTFOLIO RESTRUCTURE IMPROVES COVERAGE

## 3-PART SOLUTION

1

### **Two Existing Policies Rescued.**

Accessed policy info and made adjustments to put policies back on track.

2

**Two New Policies Acquired.** Negotiated insurability but at lower underwriting rating. Provided coverage needed for estate taxes.

3

**One Policy Sold** as life settlement. Proceeds funded current year tax requirements.

# WHEN DOES SELLING A POLICY MAKE SENSE?

## 1 CLIENT CRITERIA

- Clients age 65+
- Decline in health
- No longer need policy

## 2 CLIENT NEEDS

- Immediate liquidity
- Retirement income
- Long-term care funding

## 3 POLICY CHANGES

- Premiums unaffordable
- Planning to lapse
- Policy about to expire

## 4 PLANNING CHANGES

- Sale of business
- Key person policy not needed
- Estate taxes no longer a concern



# EXAMPLE OF THE TAX BREAKDOWN

## Portion of Pre-Tax Net Offer

## Taxation

### Cost Basis

The portion of your contract that is typically your total premium payments.

Tax Free

### Cash Surrender Value over Cost Basis

The portion of your cash surrender value that is greater than your cost basis.

Ordinary Income

### Gain over Cash Surrender Value

The portion of your policy pre-tax net offer that is greater than your cash surrender value less cost basis.

Capital Gains

|                                       |                  |
|---------------------------------------|------------------|
| Pre-Tax Net Offer                     | \$1,390,000      |
| Cost Basis (this portion is tax free) | \$873,419        |
| <b>Total Gain</b>                     | <b>\$516,581</b> |

|  |            |
|--|------------|
| Cash Surrender Value                     | \$485,896  |
| Cost Basis                               | \$873,419  |
| <b>Cash Surrender Value - Cost Basis</b> | <b>\$0</b> |
| <b>Total Ordinary Income Tax (39%)</b>   | <b>\$0</b> |

|                                      |                  |
|--------------------------------------|------------------|
| Total Gain                           | \$516,581        |
| Cash Surrender Value - Cost Basis    | \$0              |
| <b>Total Capital Gain</b>            | <b>\$516,581</b> |
| <b>Total Capital Gains Tax (24%)</b> | <b>\$122,946</b> |

|                   |   |                     |   |
|-------------------|---|---------------------|---|
| Pre-Tax Net Offer | - | Total Estimated Tax | = |
| \$1,390,000       | - | \$122,946           | = |

**Estimated After-Tax Net Offer**

**\$1,267,054**

# AUCTION PROCESS IN ACTION



**MARKETPLACE  
EXPOSURE**



**COMPETITIVE  
AUCTION PROCESS**



**HIGHEST FAIR  
MARKET VALUE**

| Provider  | Initial Offer | Auction Rounds |             |             |             |             |             |             |             |             |             |             |             |             |             |
|-----------|---------------|----------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
|           |               | 1              | 2           | 3           | 4           | 5           | 6           | 7           | 8           | 9           | 10          | 11          | 12          | 13          | 14          |
| Bidder 1  |               | \$910,000      | \$960,000   | \$1,012,500 |             |             |             |             | \$1,160,000 | \$1,180,600 | \$1,210,000 | \$1,220,000 | \$1,260,000 | \$1,270,000 | \$1,270,000 |
| Bidder 2  | \$900,000     | \$900,000      | \$1,000,000 | \$1,050,000 | \$1,050,000 | \$1,100,000 | \$1,100,000 | \$1,150,000 | \$1,150,000 | \$1,200,000 | \$1,200,000 | \$1,250,000 | \$1,250,000 | \$1,270,000 | \$1,280,000 |
| Bidder 3  |               | \$910,000      |             |             | \$1,075,000 | \$1,086,000 | \$1,125,000 |             |             | \$1,160,000 | \$1,210,000 | \$1,210,000 | \$1,260,000 | \$1,260,000 | \$1,280,000 |
| Bidder 4  | \$800,000     | \$916,000      | \$966,600   | \$1,021,600 | \$1,076,000 | \$1,076,000 | \$1,126,000 | \$1,126,000 | \$1,170,000 | \$1,170,600 |             |             |             |             |             |
| Bidder 5  | \$900,000     | \$900,000      | \$1,002,500 | \$1,002,500 | \$1,065,000 | \$1,100,000 | \$1,100,000 | \$1,145,000 |             |             |             |             |             |             |             |
| Bidder 6  |               | \$925,000      | \$975,000   | \$1,020,000 | \$1,060,000 | \$1,086,000 | \$1,086,000 | \$1,136,000 |             |             |             |             |             |             |             |
| Bidder 7  |               | \$920,000      | \$980,000   | \$1,012,500 | \$1,060,000 | \$1,086,000 | \$1,086,000 |             |             |             |             |             |             |             |             |
| Bidder 8  |               | \$950,000      | \$950,000   | \$1,002,500 | \$1,060,000 |             |             |             |             |             |             |             |             |             |             |
| Bidder 9  |               |                | \$960,000   |             |             |             |             |             |             |             |             |             |             |             |             |
| 9 Bidders | No offers     |                |             |             |             |             |             |             |             |             |             |             |             |             |             |

|          | 15          | 16          | 17          | 18          | 19          | 20          | 21          | 22          | 23          | 24          | 25          | 26          | 27          |
|----------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Bidder 1 | \$1,290,000 | \$1,310,000 | \$1,320,000 | \$1,360,000 | \$1,360,000 | \$1,395,000 | \$1,395,000 | \$1,470,000 | \$1,470,000 | \$1,520,000 | \$1,520,000 | \$1,570,000 | \$1,570,000 |
| Bidder 2 | \$1,300,000 | \$1,300,000 | \$1,350,000 | \$1,350,000 | \$1,375,000 | \$1,375,000 | \$1,450,000 | \$1,450,000 | \$1,500,000 | \$1,500,000 | \$1,550,000 | \$1,550,000 |             |
| Bidder 3 | \$1,280,000 | \$1,310,000 | \$1,310,000 | \$1,360,000 | \$1,360,000 |             | \$1,415,000 | \$1,470,000 | \$1,470,000 | \$1,520,000 | \$1,520,000 |             |             |

The above chart was the result of an actual auction but is intended for illustrative purposes and is not intended to indicate any future rate of success or percentage increase to a future policy holder. Each auction is unique to each policy.



# TAKEAWAYS

You, the advisor,  
always have options

Tax-efficient solutions  
drive best outcomes

Proactively review  
inforce policies



**BIG BEAUTIFUL TAX ACT**

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**QUESTIONS?**

# Disclosures

Policy Management Company (“PMC”) is affiliated with Valmark Securities, Inc. and Valmark Advisers, Inc.

Any mention of guarantees in this presentation are limited to the claims-paying ability of the issuing company. Not all characteristics described in this presentation will be applicable to every client situation. Any forecasts contained herein are for illustrative purposes only and are not to be relied upon as advice or interpreted as a recommendation. Any tax advice contained herein is of a general nature. You should seek specific advice from your tax professional before pursuing any idea contemplated herein.

A policy owner should consider the continued need for coverage, and, if the policy owner plans to replace the existing policy with another policy, the policy owner should consider the availability, adequacy and cost of comparable coverage.

Securities offered through Valmark Securities, Inc. Member FINRA/SIPC. Investment advisory services offered through Valmark Advisers, Inc. an SEC registered investment Advisor. Valmark is located at 130 Springside Drive, Akron, Ohio 44333. (800) 765-5201.

# Life Settlement Disclosure

Valmark Securities, Inc. and its registered representatives act as brokers on the transaction and will receive a fee from the purchaser. Valmark supervises all life settlements like a security transaction.

Valmark markets policies only to Life Settlement Providers. Life Settlement Providers are generally responsible for maintaining the policy after sale and receive their funding from institutional buyers.

Valmark reviews Life Settlement Providers periodically to affirm that their funding sources are institutional buyers, carry errors and omissions insurance, and are licensed in the state of sale.

Institutional buyers include qualified institutions, accredited investors, hedge funds, pension funds, and other qualifying investors. Investors bundle policies to ease any concerns with strangers having access to view millions of death benefit on an individual.

In a life settlement agreement, the current life insurance policy owner transfers the ownership and beneficiary designations to a third party, who receives the death proceeds at the passing of the insured. As a result, this buyer has a financial interest in the seller's death.

A policy owner should consider the continued need for coverage, and, if the policy owner plans to replace the existing policy with another policy, the policy owner should consider the availability, adequacy, and cost of comparable coverage.

Policy owners considering the need for cash should consider other less costly alternatives to a life settlement.

When an individual decides to sell their policy, they must provide complete access to their medical history, and other personal information, that may affect their life expectancy. This information is requested during the initial application for a life settlement. After the completion of the sale, there may be an ongoing obligation to disclose similar and additional information to the buyer or servicing agent at a later date.

A life settlement may affect the insured's ability to obtain insurance in the future and the seller's eligibility for certain public assistance programs, such as Medicaid, and there may be tax consequences. Individuals should discuss the taxation of the proceeds received from a life settlement with their tax advisor.

A life settlement transaction may require an extended period of time to complete. Due to complexity of the transaction, fees and costs incurred with the life settlement transaction may be substantially higher than other securities.

Once the policy is transferred, the policy owner has no control over subsequent transfers.

Each client's experience varies, and there is no guarantee that a life settlement will generate an offer greater than the current cash surrender value. In such cases, the client can always surrender their policy to the carrier if the coverage is no longer needed.

# SALT ESSENTIALS: MAKING SENSE OF STATE & LOCAL TAXATION

November 11, 2025

BDO USA, P.C, a Virginia professional corporation, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.



# Agenda

## 1. Overview Of Key SALT Concepts And Best Practices

- ▶ Nexus
- ▶ Sourcing

## 2. State IRC Conformity

- ▶ Explore state adoption or decoupling and key differences in conformity
- ▶ Assess effects on state taxable income, apportionment, and deduction timing

## 3. State Tax Developments Under OBBA

- ▶ State Tax Developments
- ▶ Review recent federal tax legislation (e.g., IRC §163(j), §174, bonus depreciation)

## 4. Practical Strategies And Compliance Challenges

- ▶ Discuss legislative tracking, impact modeling, and best practices for risk mitigation and tax optimization
- ▶ Address filing complexity and potential higher liabilities
- ▶ Identify proactive strategies for managing evolving state responses

## WITH YOU TODAY



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# Overview Of Key SALT Concepts And Best Practices



# Baseline: Nexus and Ability to Impose Tax

- **Nexus:** A level of connection or presence a business must have in a jurisdiction before that jurisdiction can impose tax filing obligations (tax payment obligations may differ, interplay with P.L. 86-272)
- **Physical Presence:** In-state employees/contractors, offices, warehouses, travel to customer locations, third-party logistics (3PLs), consigned inventory, performance of services, tradeshow
- **“Doing Business” or “Deriving Income” Standards:** Asserting nexus based on business activities or income generation within the state
- **Economic or Attributional Nexus:** Asserting nexus without physical presence (e.g., agency or affiliate relationships, trailing nexus rules) if purposefully creating a market in the state
- **Factor-Based Presence Thresholds:** Asserting nexus based on numeric thresholds. Approximately 16+ states now assume substantial nexus and a filing requirement if sales, property, and/or payroll exceed a stated threshold

# Income, Franchise, and Other Taxes: General

- **Filing Methodologies:** separate, combined, consolidated, unitary business relationship, waters-edge
- **Sourcing:**
  - General: TPP vs. Intangibles/Services/Digital Goods/etc.
  - Tax Base / Addbacks: related party transactions / transfer pricing (interest, management fees, royalties); conformity to TCJA / OBBBA (GILTI, FDII, IRC §163(j), bonus depreciation)
- **Apportionment:** sourcing methodologies, shift to single sales factor formula and market-based sourcing, throwback and throw out, industry specific (financial, transportation, oil/gas)
- **Public Law 86-272:** Applies to only sales of TPP and only on income-based taxes, states adopting MTC guidance related to internet-based activities
- **Foreign Entities (FE) with US Activity:** if FE has ECI (income effectively connected with a US trade/business) but no PE (permanent establishment) under a treaty, treaty may exempt the income from US tax; however, states vary in whether they conform with tax treaties between US and foreign governments
- **Pass-Through Entities:** tax withholding requirements on non-resident owners, pass-through entity tax elections, composite payments, tax withholding waivers, entity level taxes (S corporation taxes in CA / IL)
- **Gross Receipts Taxes:** NV (Commerce), OH (CAT), OR (CAT), WA (B&O)

# Income, Franchise, and Other Taxes: NOL's

## ➤ Net Operating Losses

- Carryover: Many states do not follow federal NOL carryover rules and have their own rules
- Carryback and carryforward: Many states periods differ from the federal periods
- Suspension: Some states have suspended NOL deductions

## ➤ Nexus

- Loss Year: Nexus is required in year loss is generated
- Deduction: Nexus required in year that NOL deduction is reported

## ➤ Combined Returns

- Determination: Are NOL computations performed at the unitary group level, or the individual member level?

## ➤ Apportionment

- Calculation: NOLs calculated pre-apportionment or post-apportionment?
- Factor Application: Which year's apportionment factors apply?

## ➤ IRC §§ 381 & 382

# State Tax Developments under The One Big Beautiful Bill ("OBBBA")



# Key Corporate Income Tax (CIT) Provisions in OBBBA

- Permanent reinstatement of interest expense limitation based on EBITDA (IRC §163(j))
- Permanent reinstatement of domestic R&E expensing (IRC §174)
- Permanent reinstatement of 100% bonus depreciation for equipment (IRC §168(k))
- Extension and expansion of TCJA business tax measures (generally effective in 2025; GILTI/NCTI changes in 2026)
- Updates to international tax rules, including a new 14% GILTI/NCTI effective tax rate and elimination of QBAI deduction (IRC §951A)
- Modifications to FDII provisions
- Introduction of new business tax reductions, effective in 2025
- State CIT reductions for conforming states
  - Generally favorable for businesses, except for the GILTI/NCTI changes

# OBBBA: SALT Provisions Not Included

- **Interstate Commerce Simplification Act: Proposed Changes to PL 86-272**
  - House version sought to clarify that “solicitation” covers any business activity facilitating order solicitation, even if it also serves other business purposes
  - Provision was omitted from the Senate-approved legislative text
- **Mobile Workforce State Income Tax Simplification Act (S. 1443)**
  - Would have exempted nonresidents from state income tax compliance if working in-state for fewer than 30 days
  - No amendment was made to add S. 1443 to OBBBA
- **Other Excluded Provisions**
  - Proposed limitation on SALT deduction for corporations
  - Suggested cap on state health care provider taxes

# IRC Conformity



# State IRC Conformity Methods: Step 1

- **“Rolling” IRC Conformity:** State automatically conforms to the IRC “as amended”; legislative action is required to decouple from federal changes.
  - Examples: IL, MA, NJ, NY, TN
- **“Fixed-Date” IRC Conformity:** State conforms to the IRC as of a specific date (“as amended and in effect on” or “as enacted on” a certain date).
  - Examples: AZ, FL, GA, MI, TX
- **“Selective” IRC Conformity:** State conforms only to certain IRC sections, either on a rolling or fixed-date basis.
  - Examples: PA (rolling), CA (fixed-date)
- These approaches can result in significant differences between federal and state tax outcomes, especially following major federal tax law changes.

# State IRC Conformity Methods: Step 2

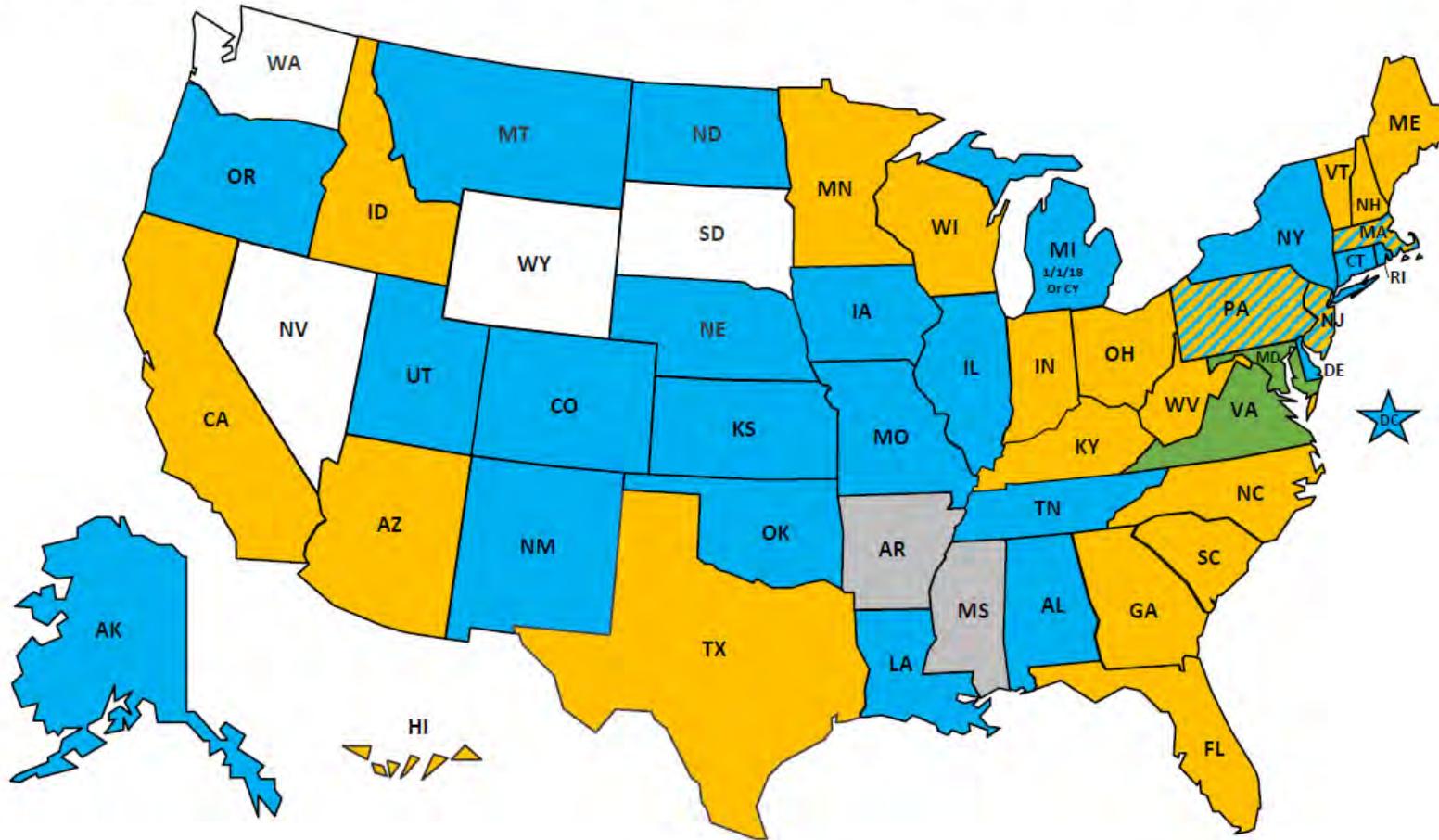
## ➤ Review specific code sections

- Adopt except ....
  - Modify or decouple
  - Ex.
    - ✓ IRC §168(k) - Bonus Depreciation - most require add-back and then their specific schedule calc.
    - ✓ IRC §199A - Qualified Business Income Deduction - Most states do not conform to the 20% deduction
    - ✓ IRC §163j - Interest Expense Limitation
    - ✓ IRC §172 - States often have their own NOL rules, carryforward/carryback periods and limitations
      - Many states do not conform to Carryback provisions
    - ✓ IRC §951A - GILTI
  - US Tax Treaties

# States' Conformity to the Internal Revenue Code (IRC)

## (as it relates to the computation of taxable income)

As of July 18, 2025



- 22 states (including DC) that automatically conform to the IRC as the IRC is amended. (Rolling Conformity): AK, AL, CO, CT, DC, DE, IA, IL, KS, LA, MI, MO, MT, ND, NE, NM, NY, OK, OR, RI, TN, UT
- 18 states that conform to the IRC as of a specific date (Static or Fixed Conformity): AZ, CA, FL, GA, HI, ID, IN, KY, ME, MN, NC, NH, OH, SC, TX, VT, WI, WV
- 2 states that decouple from some IRC provisions that have significant revenue effect until / unless the state legislature addresses the provisions (MD, VA)
- 3 states with rolling conformity rules for corporate and fixed conformity on some or all items for non-corporate taxpayers (MA, NJ, PA)
- 2 states lacking general conformity to the IRC (Specific Conformity) (AR, MS)
- 4 states with no personal or corporate income tax and conformity not applicable (NV, SD, WA, WY)

# IRC §163j Interest Expense Limitation Overview



## IRC §163j: Pre-OBBBA

- **Purpose:** Limits the deductibility of business interest expense for taxpayers.
- **Business interest expense deduction** is limited to the sum of:
  - Business interest income,
  - 30% of adjusted taxable income (ATI),
  - Floor plan financing interest (for certain vehicle dealers).
- **Adjusted Taxable Income (ATI)**
  - **ATI** is similar to EBITDA (earnings before interest, taxes, depreciation, and amortization) for tax years 2018-2021.
  - For tax years beginning after 2021, ATI is calculated as EBIT (earnings before interest and taxes)—depreciation and amortization are not added back.

# IRC §163j: Changes Under OBBBA

- **Permanent Addback of Depreciation, Amortization, and Depletion:**
  - The bill permanently reinstates the addback of depreciation, amortization, and depletion in the calculation of Adjusted Taxable Income (ATI).
  - Applies to tax years beginning after December 31, 2024.
  
- **Ordering Rule for Interest Limitation:**
  - IRC §163(j) limitation must be applied first to capitalized interest, then to other interest.
  - Effective for tax years beginning after December 31, 2025.
  
- **Clarification of ATI Definition:**
  - ATI excludes amounts included in gross income under:
    - IRC §951(a) (Subpart F income),
    - IRC §951A(a) (GILTI),
    - IRC §78 (gross-up for foreign taxes deemed paid).

# IRC §163(j) State Tax Considerations

## ➤ IRC §163(J) MODIFICATIONS:

- No OBBBA Act impact for states that have already decoupled from IRC §163(j)
- Fixed-date IRC conformity states that conformed to TCJA IRC §163(j) must update to conform to OBBBA amendments to IRC §163(j) - limitation increase and elections.
- Rolling IRC conformity states that conformed to TCJA IRC §163(j) will conform to the OBBBA modifications unless they decouple.
- Impact: Differences in ATI calculation may affect interest expense deductions and increase complexity in state tax compliance

## IRC §163j: State Tax Implications Example

|  |  |   |
|--|--|---|
| <b>Federal Interest Expense</b>                            | <b>100,000</b>                             |   |
| <b>Depreciation &amp; Amortization</b>                     | <b>40,000</b>                              |   |
| <b>Taxable Income before Depreciation and Amortization</b> | <b>200,000</b>                             |   |
|  |  |   |
|  | <b>Fixed Date<br/>Conforms to<br/>TCJA</b> | <b>Rolling<br/>Conforms to<br/>OBBB</b> |
| Taxable Income before Depreciation and Amortization        | 200,000                                    | 200,000                                 |
| Depreciation & Amortization                                | 40,000                                     |   |
| Adjusted Taxable Income (ATI)                              | 160,000                                    | 200,000                                 |
| <b>Limitation (30%)</b>                                    | <b>48,000</b>                              | <b>60,000</b>                           |
|  |  |   |
| Federal Interest Expense                                   | 100,000                                    | 100,000                                 |
| Limitation (30%)   | 48,000                                     | 60,000                                  |
| <b>Disallowed Interest</b>                                 | <b>52,000</b>                              | <b>40,000</b>                           |
|  |  |   |

# Global Intangible Low-Taxed Income ("GILTI") and Net CFC Tested Income ("NCTI") Changes



# GILTI: Pre-OBBBA

- U.S. shareholders of Controlled Foreign Corporations (CFCs) must include GILTI (Global Intangible Low-Taxed Income) in gross income annually.
- GILTI calculation: Net tested income of all CFCs minus 10% of aggregate qualified business asset investment (QBAI) and net interest expense.
- Corporate U.S. shareholders receive a IRC §250 deduction of 50% of GILTI (effective tax rate: 10.5%).
- Deduction scheduled to decrease to 37.5% for tax years beginning after December 31, 2025 (effective tax rate: 13.125%).

# GILTI/NCTI: Changes Under OBBBA

- Calculation for CFCs changes to “net CFC tested income” (NCTI)
- IRC §250 deduction for NCTI reduced to **40%** (higher effective tax rate).
- No longer includes a deduction for QBAI.
- Reduction of the foreign tax credit haircut from 20% to 10%
- Results in an effective tax rate of 12.6% on NCTI

# GILTI/NCTI: State Tax Considerations

- Deduction percentages may differ at the state level; some states may follow the old 37.5% rate for years 2026 and later.
- Nonconformity issues may arise in states such as Idaho, New Hampshire, Vermont, Maine, and Minnesota.

# IRC §174 Research and Experimental Expenditures



# IRC §174: Pre-OBBBA

- **TCJA Change (Effective for tax years beginning after December 31, 2021):**
  - **Mandatory Capitalization:** R&E expenditures must be capitalized and amortized over 5 years (15 years for foreign research).
  - **No Immediate Deduction:** Immediate expensing of R&E expenditures is no longer allowed.
  - **Amortization Begins:** Amortization starts at the midpoint of the taxable year in which the expenditure is paid or incurred (half-year convention).
  - **Software Development Costs:** Treated as R&E expenditures and subject to the same capitalization and amortization rules.
  - **Foreign Research:** Expenditures for research conducted outside the U.S. must be amortized over 15 years.

# IRC §174: Changes Under OBBBA

- New IRC §174A allows immediate deduction of domestic research and experimental expenditures for tax years beginning after December 31, 2024
- Small Businesses ( $\leq$ \$31M average gross receipts prior 3 years): Can amend 2022-2024 returns for full retroactive deduction
- All Other Taxpayers: Can accelerate remaining unamortized balances over 1-2 years starting in 2025
- Foreign research expenditures continue to be amortized over 15 years

# IRC §174: State Tax Considerations

## ➤ State Nonconformity Risks:

- Certain fixed date conformity states may still require amortization of domestic research expenditures, even when federal law allows immediate expensing
- Potential Nonconforming States:
  - Arizona, Florida, Hawaii, Idaho, Kentucky, Maine, Minnesota, New Hampshire, North Carolina, South Carolina, Vermont, Virginia, West Virginia

## ➤ Additional Note:

- States conforming to a pre-TCJA version of IRC §174 may continue to allow full expensing for both domestic and foreign expenses, unless amortization is elected

# IRC §168(k) Bonus Depreciation & IRC §168(n)



# IRC §168(k) Bonus Depreciation: Pre-OBBBA

- Increased to **100%** for qualified property acquired and placed in service after September 27, 2017, and before January 1, 2023.
- Scheduled to phase down:
  - 80% in 2023,
  - 60% in 2024,
  - 40% in 2025,
  - 20% in 2026, and
  - Expires after 2026

## IRC §168(k) Bonus Depreciation: Post OBBBA

- Makes permanent **100% expensing** for qualified property acquired and placed in service after January 19, 2025

# IRC §168(k): State Tax Considerations

## ➤ State Nonconformity Risks:

- Certain states may not conform to full expensing for qualified property but conform to expensing under the TCJA

## ➤ Potential Nonconforming State:

- West Virginia

# IRC §168(n): New 100% Expensing of QPP

The OBBBA adds Code §168(n), which provides special 100% expensing for a new separate class of property known as qualified production property (QPP). The new rules allow taxpayers to elect to fully deduct amounts invested in the year the property is placed in service.

## ➤ QPP in Qualified Production Property

- IRC §168(n) defines QPP as any portion of domestic nonresidential real property that meets the following requirements:
  - Construction of the property begins after January 19, 2025, and before January 1, 2029;
  - The property is placed in service within the U.S. or a possession of the U.S. before January 1, 2031;
  - The property is used by the taxpayer as an integral part of a qualified production activity;
  - The property's original use commences with the taxpayer (unless an exception applies, see below); and
  - The property is not required to use the alternative depreciation system.

# Questions?



# “THE ONE, BIG, BEAUTIFUL BILL”

## *8 Key Takeaways for Estate Planners*

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# Eight Key Takeaways for Estate Planners

1. \$15,000,000 permanent BEA
2. TJCA individual bracket structure made permanent (with slight improvements)
3. Itemized deductions
  - TCJA limitations generally made permanent
  - \$40,000 SALT cap (Applies to trusts/estates)
  - NEW: 0.5% charitable deduction floor
  - NEW: overall limitation on itemized deductions
4. Tax advantaged saving accounts:
  - NEW: TRUMP Accounts
  - Improvements to 529 Accounts & ABLE Accounts
5. NEW: Private school scholarship donation tax credit
6. Section 199A 20% deduction made permanent
7. Increased business expensing
  - 100% bonus depreciation permanent & Section 179 expansion
  - NEW: Qualified Production Property
8. Qualified Opportunity Zones made permanent & improvements to Section 1202

**1. \$15,000,000 BEA**

# Estate & Gift Tax Exclusion

## *Increased BEA Made Permanent*

- The TCJA doubled the Basic Exclusion Amount (BEA) through 12/31/25 (\$13,990,000 in 2025)
- TCJA sunset uncertainty made planning difficult over the last several years
- The bill will permanently increase the estate, gift and GST exclusion to \$15,000,000 for 2026 and will be indexed for inflation thereafter
- This will provide meaningful relief to many families who may be subject to the estate tax but are not wealthy enough to undertake simple & effective tax planning.

# Estate & Gift Tax Exclusion

## *Key Takeaways*

- Removes sunset uncertainty for many families:
  - Reduces the need for Inter Vivos SLAT planning for estate tax planning
  - Increases the opportunity to capture the basis step-up
- Core issues and planning for very wealthy families remain the same – Capturing the estate and GST tax exclusion early remains critical
- Grantor Trusts still beneficial for wealthy families
- Focus on Non-Grantor Trusts for most clients
- Focus on using GPOAs to Increase Basis on Bypass Trusts and SLATs

## 2. TJCA Individual Bracket Structure Made Permanent (with slight improvements)

# Individual Rates – Made Permanent

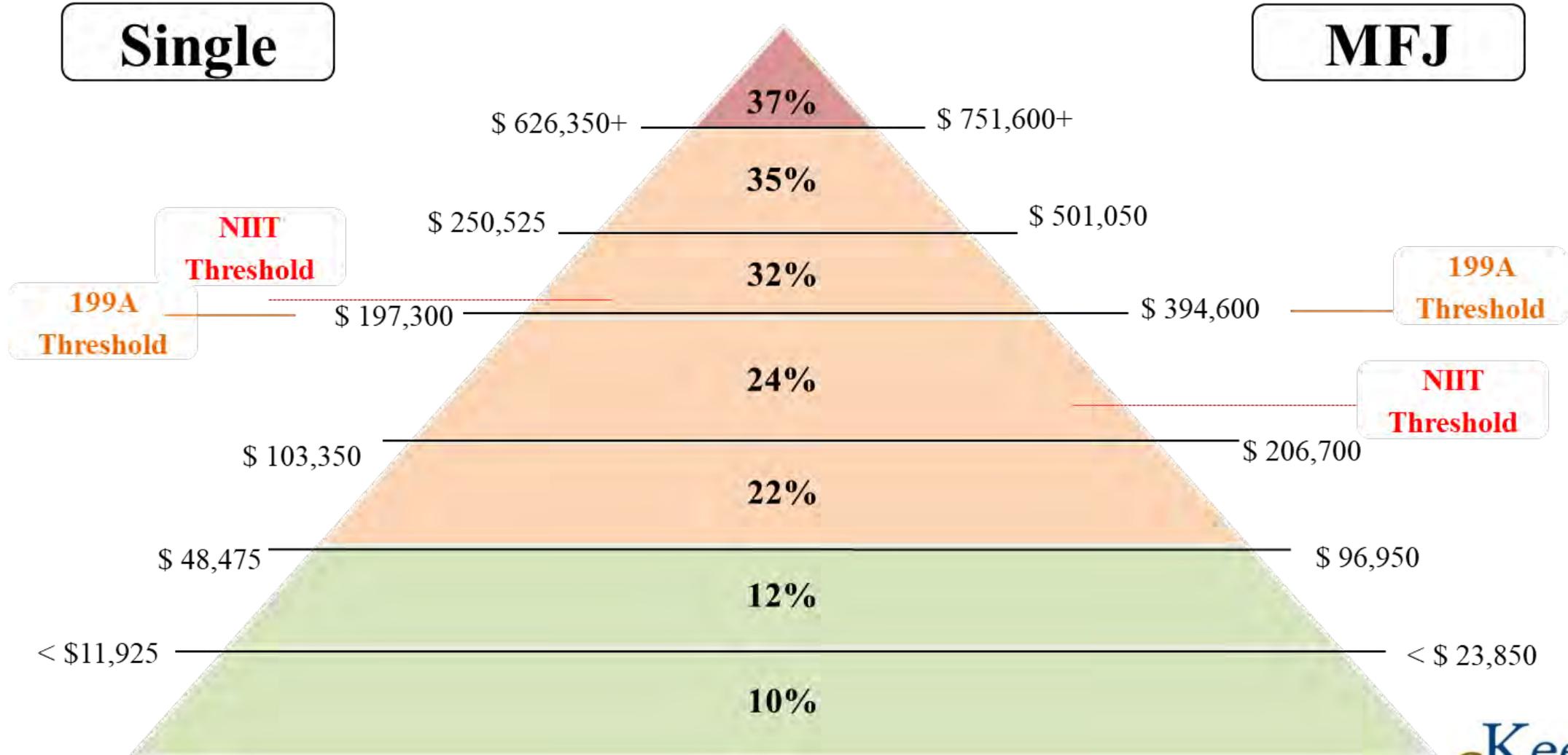
- All TCJA rates & bracket thresholds generally made permanent
- Roth Conversions still popular
- Added danger zones for Roth Conversions
- Roth Conversions for disabled beneficiaries
- Slight upward adjustments to the top of the 10% and 12% brackets, thereby granting a small amount of additional relief
- Effective in 2026



# 2025 Tax Brackets

**Single**

**MFJ**

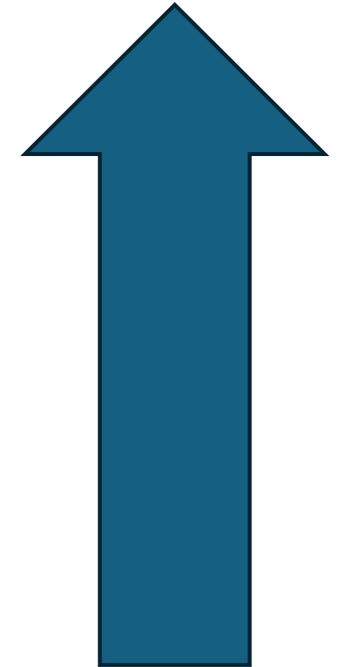


# Standard Deduction

## *Made Permanent & Expanded*

- TCJA standard deduction increase permanent
- Slight additional permanent increase as well
- **Effective in 2025**

|               | 2025<br>TCJA | 2025<br>OBBBA |
|---------------|--------------|---------------|
| <b>Single</b> | 15,000       | 15,750        |
| <b>HoH</b>    | 22,500       | 23,625        |
| <b>MFJ</b>    | 30,000       | 31,500        |
| <b>MFS</b>    | 15,000       | 15,750        |



OBBBA § 70102

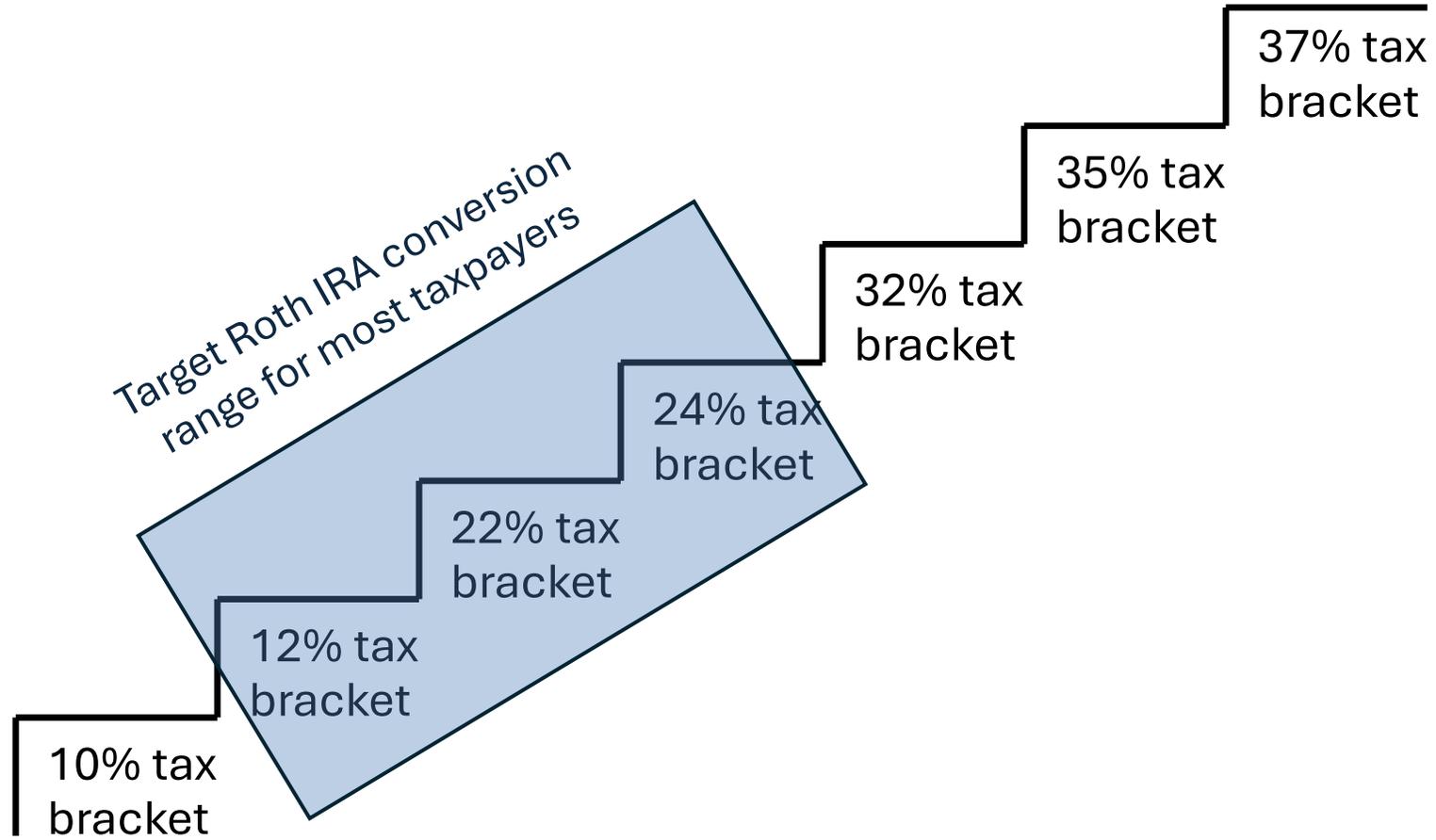
# Senior Personal Exemption

- For years **2025**, 2026, 2027, & 2028 seniors are entitled to an additional \$6,000 exemption.
- Limitations in the bill
  - Available to taxpayers who have attained age 65
  - Reduced by 6% of the amount modified AGI exceeds \$75,000 (\$150,000 MFJ)

# Mathematics of Roth IRA Conversions

- In simplest terms, a traditional IRA will produce the same after-tax result as a Roth IRA provided that:
  - The annual growth rates are the same
  - The tax rate in the conversion year is the same as the tax rate during the withdrawal years (i.e.  $A \times B \times C = D$ ;  $A \times C \times B = D$ )
- Still beneficial for clients with a state or federal estate tax
  - The 691(c) deduction is not efficient
  - A Roth conversion can add 10%-15% to the overall wealth transfer

# Mathematics of Roth IRA Conversions



# 3. Itemized Deduction Reform

# State & Local Tax Deduction *Modifications*

- The bill Increases the deduction cap as follows:

|       |          |
|-------|----------|
| 2025  | \$40,000 |
| 2026  | \$40,400 |
| 2027  | \$40,804 |
| 2028  | \$41,212 |
| 2029  | \$41,624 |
| 2030+ | \$10,000 |

- Deduction is available to both trusts and estate (Fiscal year idea)
- The bill also provides the deduction cap is reduced by 30% of modified AGI over \$500,000;
  - The deduction is not reduced below \$10,000 (i.e., a \$100,000 phase-out range)
  - The income-based limitation applies 2025+

OBBBA § 70120

# State & Local Tax Deduction

## *Example 1*

- Example 1:
  - Gary and Barb’s AGI is \$500,000 and
  - They have itemized deductions of \$75,000 – Including a SALT deduction of \$40,000.
  - Their taxable income will be \$425,000 under the bill. ( $\$500,000 - \$75,000 = \$425,000$ )
  - The marginal rate at taxable income of \$425,000 is 32%.

# State & Local Tax Deduction

## *Example 2*

- Example 2:
  - Matt and Erin's AGI is \$600,000
  - They have itemized deductions of \$75,000 – Including a tentative SALT deduction of \$40,000.
  - However, the phase-in kicks in and their SALT deduction will be reduced by \$30,000 to \$10,000.
  - The phase-in mandates a reduction of the SALT deduction by 30% of income greater than \$500,000. ( $(\$600,000 - \$500,000 = \$100,000)$  and  $\$100,000 * 30\% = \$30,000$ ).
  - Their taxable income will be \$555,000. ( $\$600,000 - \$45,000 = \$555,000$ )
  - The marginal rate at taxable income of \$555,000 is 35%.

# State & Local Tax Deduction *Comparison*

- Example 1 v. Example 2
  - An additional \$100,000 of AGI increased taxable income by \$130,000 because the SALT deduction limitation
  - For a MFJ taxpayer losing a SALT deduction in the phase-out range, the marginal income tax rate will effectively be 45.5% (130% x 35%).
  - The marginal rate can be further increased if the Section 199A or other phaseout applies as well

# State & Local Tax Deduction *Comparison*

- Example 1 v. Example 2
  - Assume that Matt and Erin reduce their hours and only earn \$500,000.
  - If you add state income taxes and/or payroll taxes, it is easy to imagine a marginal income tax rate over 50%
  - An economist might argue that there are additional costs of working more hours than necessary (e.g., home maintenance, social responsibilities, transportation, meals, wardrobe, childcare, etc.)

# State & Local Tax Deduction

## *Active Planning*

- Non-grantor trusts to create additional taxpayers and additional \$40,000 deductions
- Shifting family income to a state without an income tax
- Pass-through entity tax (PTET) elections
- Re-organizing businesses as C-corporations

# Non-grantor Trusts

## *Active Planning*

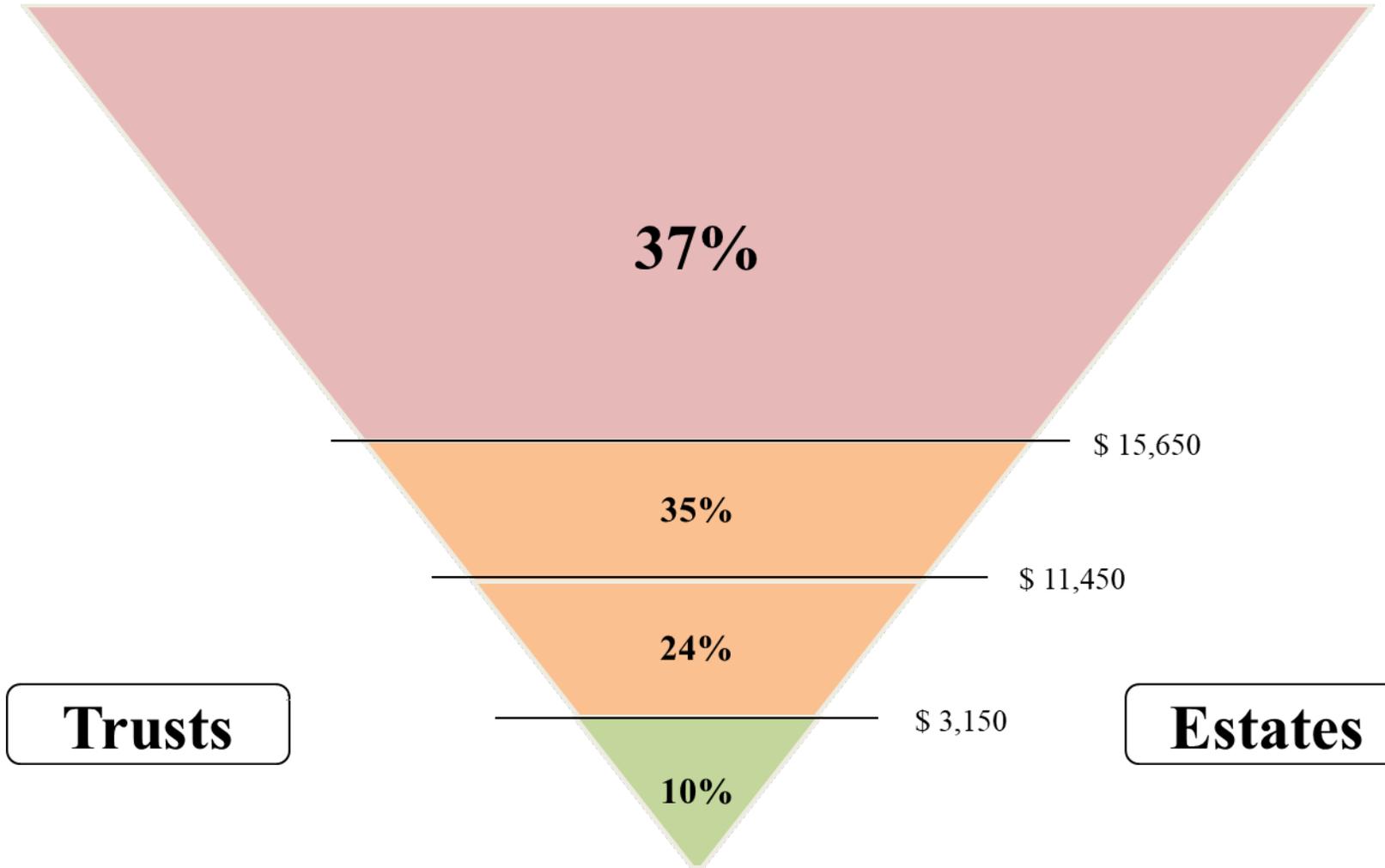
- Create additional taxpayers and additional \$40,000 in SALT deductions
- Income Shifting to trusts, children, and grandchildren
- Allow Shifting family income to a state without an income tax  
(Some “home” states prevent this. See Steve Oshins’s chart.)
- Additional benefits of using non-grantor trusts – beyond SALT:
  - Increase 199A Deductions
  - Additional QSBS Exclusions
  - Asset protection

# Income Taxation of Trusts

- Income taxed to either the trust or the beneficiaries
  - If income is accumulated, then the income is taxed to the trust/estate (37% Rate)
  - If income is distributed, then the trust/estate gets an income tax deduction and beneficiaries report taxable income
  - Roth and Traditional
  - IRA income distributed on a pro rata basis

# Foundational Concepts

## 2025 Ordinary Income Tax Rates for Estates & Trusts



# Foundational Concepts

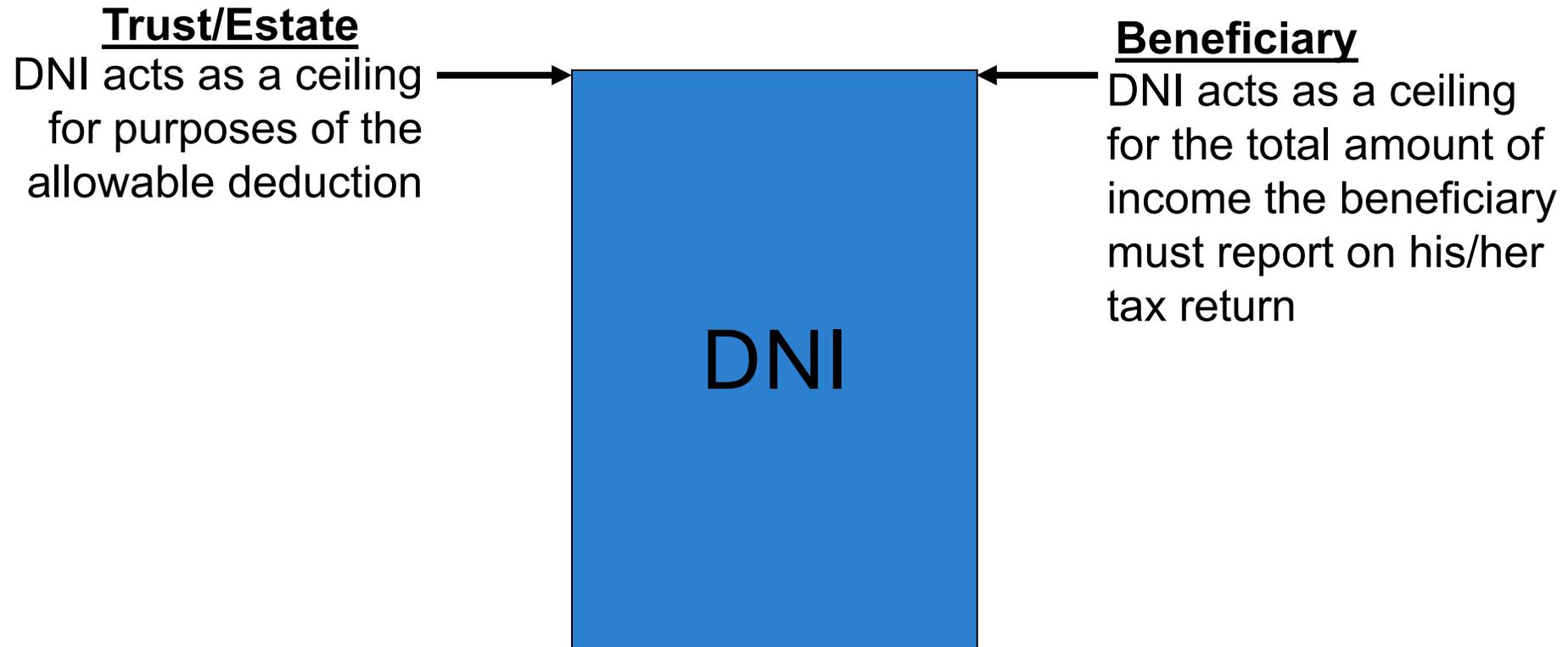
## Distributable Net Income (DNI)

- Determines the amount of the trust's or estate's income distribution deduction.
- Determines how much the beneficiaries must report as income on their tax returns.
- Determines the character (e.g. interest, dividends, IRAs etc.) of the taxable income in beneficiaries' hands.



# Foundational Concepts

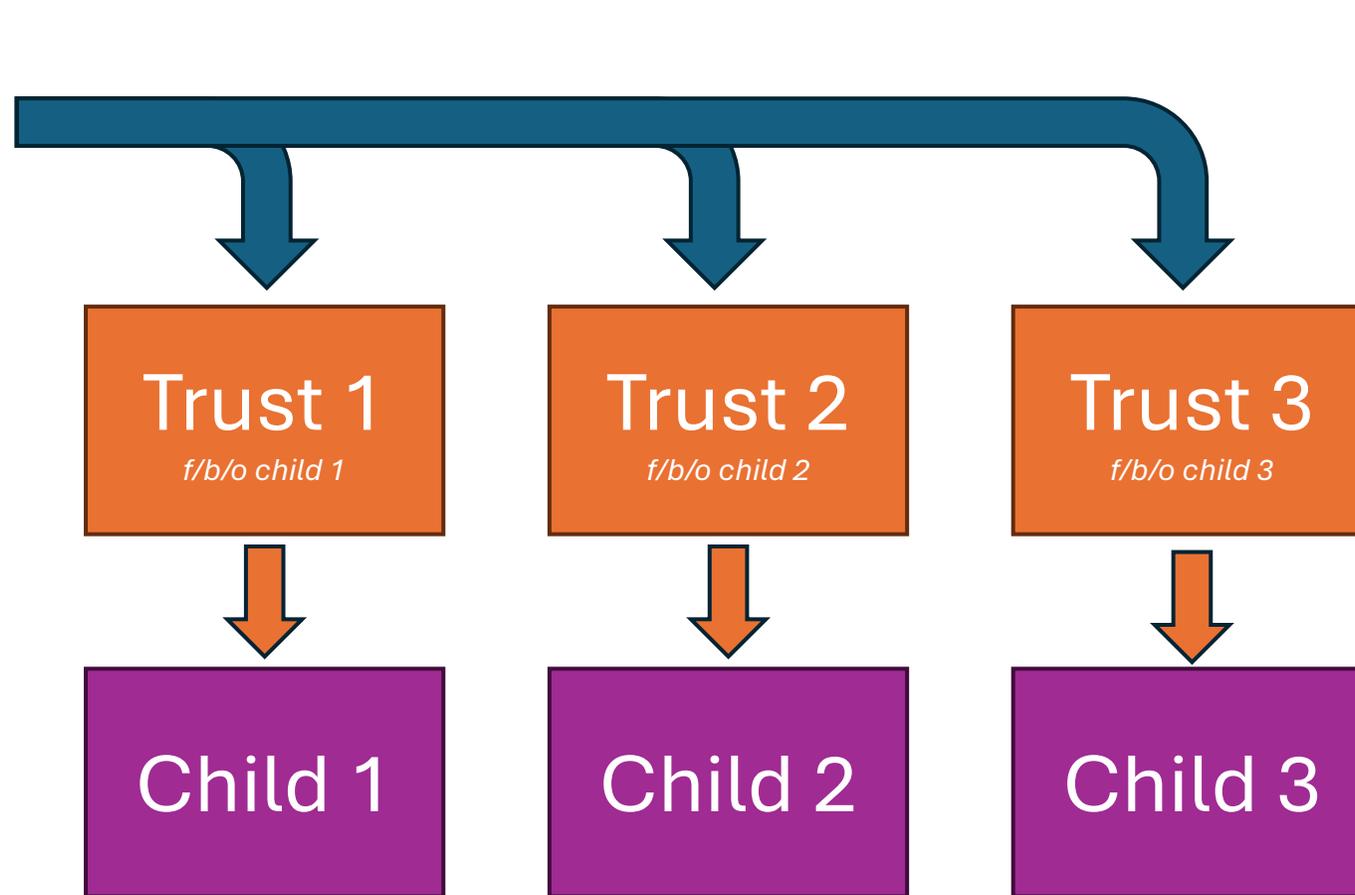
## Distributable Net Income (DNI)



# Creating Additional SALT Deductions

## *Example*

Client

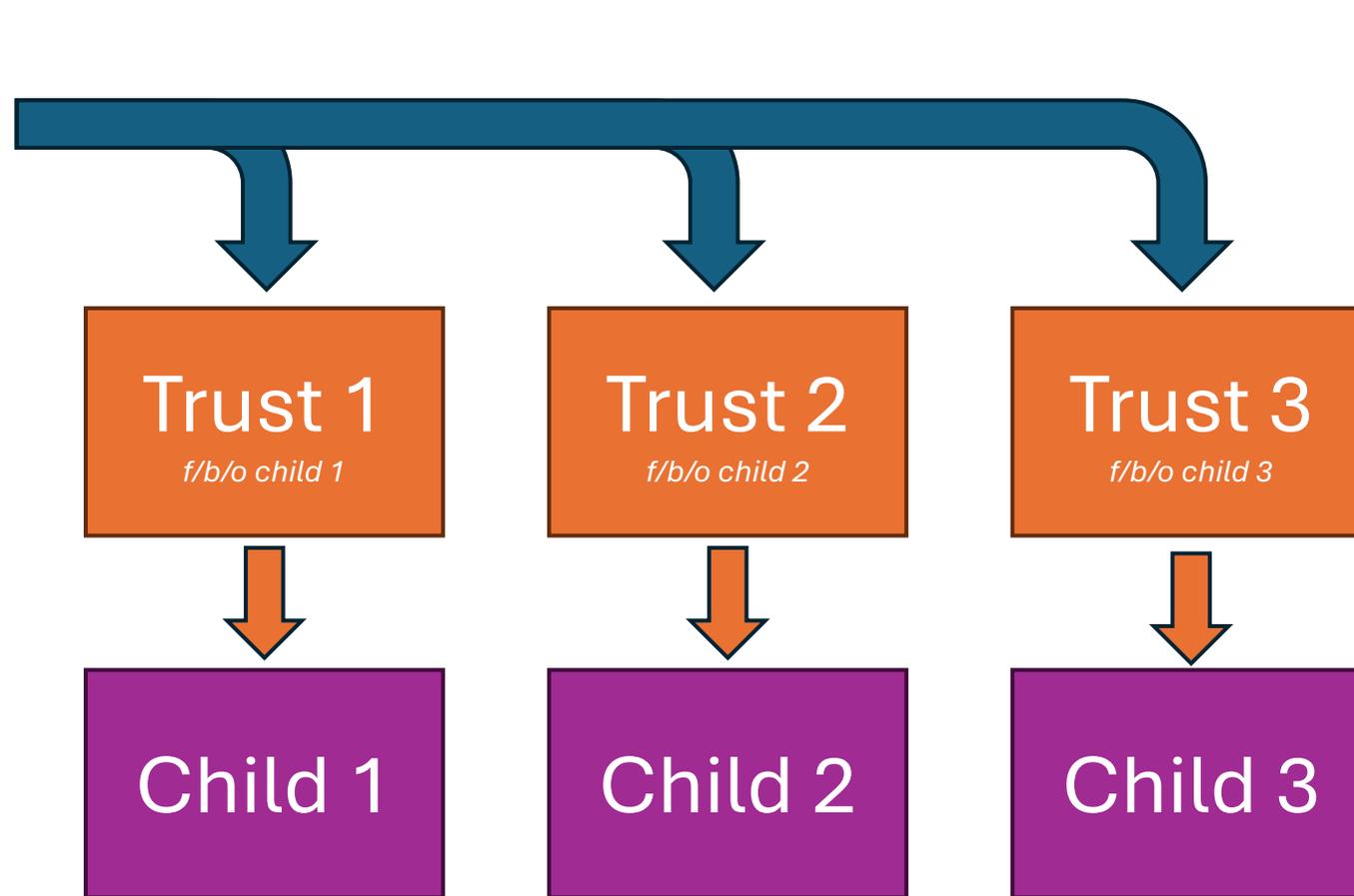


- Consider an average family with three children
- Each non-grantor trust is entitled to a SALT deduction of up to \$40,000
- Each child is entitled to a SALT deduction of up to \$40,000
- Non-grantor trusts can shift trust income to children
- Simple inter vivos estate planning could easily create 6 additional \$240,000 of deductions (\$40,000 x 6)

# Creating Additional 199A Deductions

## *Example*

Client

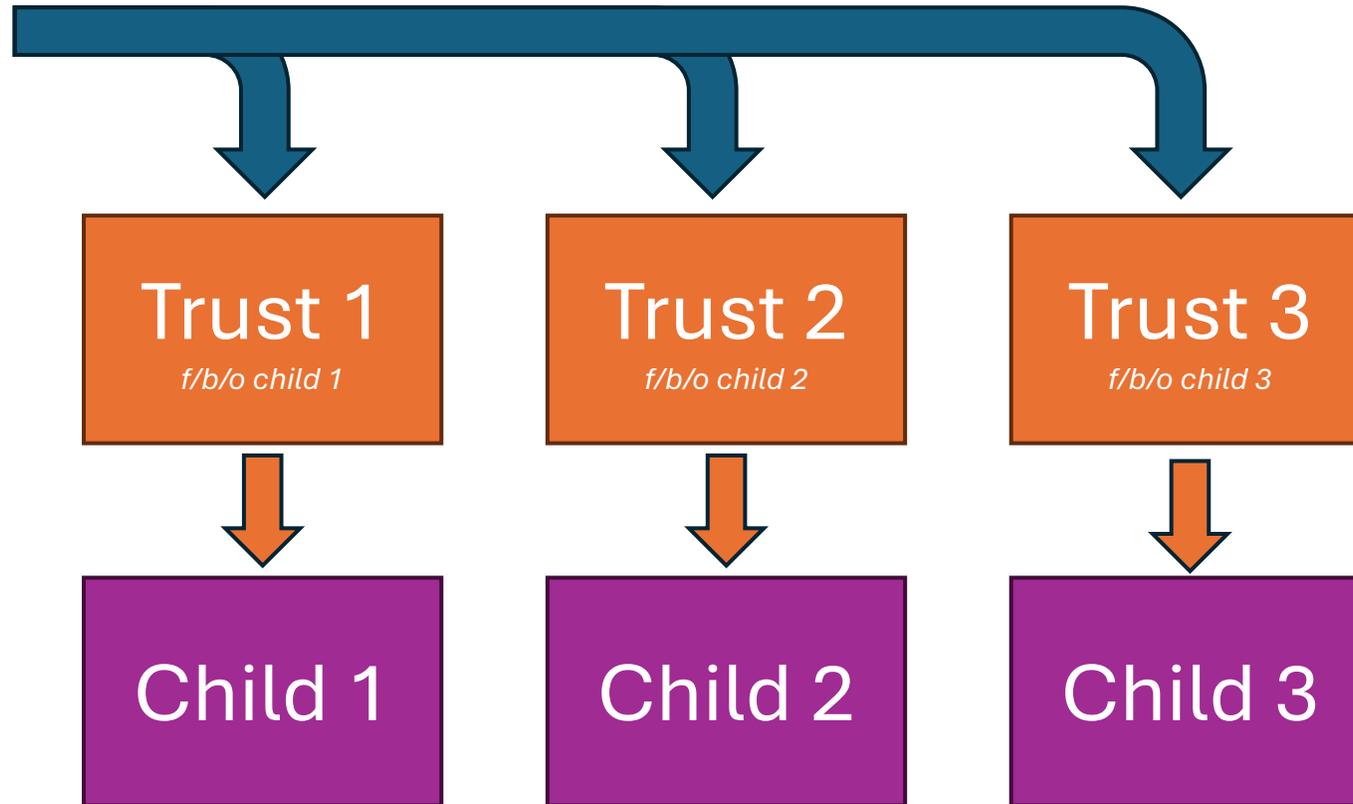


- Consider an average family with three children
- Client gifts partnership units from their rental real estate business to each trust
- The 199A invested capital limitations won't apply to the trusts if each has less than \$197,300 of taxable income
- The 199A invested capital limitations won't apply to the married children if each has less than \$394,600 of taxable income

# Creating Additional QSBS Exclusions

## *Example*

Client



- Consider an average family with three children
- Client gifts stock of a business they expect to sell eventually to three separate trusts (and potentially directly to the children)
- Each of the 3-6 additional taxpayers is entitled to a \$15,000,000 exclusion of gain on sale of the business

# Procedure to “Add SALT”

- Many of us have clients with existing non-grantor trusts
  - The potential value of the tax benefit at issue is about \$14,800 (37% x \$40,000).
  - Many tax preparers simply offer form transcription and will not help clients proactively
- Trusts and Estates are on a cash basis of accounting
  - Taxes paid in 2025 are deductible in 2025
    - 2024 liabilities paid with extensions & returns in 2025 are deductible in 2025
    - 2025 estimated tax payments, paid in 2025, are deductible in 2025
  - Taxes owed for calendar year 2025, but not paid in 2025, are not deductible in 2025 (many trustees will make their final payment for 2025 in 2026 without advice)
- Most tax preparers will generate 2025 estimated tax payment vouchers based the 2024 liability
  - Trustees should review payments to maximize their 2025 SALT deduction
  - Beneficiaries should review payments to maximize their 2025 SALT deduction

# Additional Ideas To Reduce Personal Income

- Tax-exempt bonds
- Deferring and managing LTCG
- General partnership interests in oil and gas
- Matching passive income & passive losses
- Defined benefit and defined contribution plans
- Re-organizing as a c-corporation
- Equipment purchases, QPP construction, & cost segregation
- Leasing office & retail real estate from others
- Debt / income stripping

# 0.5% Floor for Itemized Charitable Deductions

- The bill adds a new limitation – contributions must exceed 0.5% of the taxpayer's contribution base to be deductible
- The bill also permanently increases the cash contribution to 60% (recall, it was 50% before the TCJA)
- Effective to taxable years beginning after 12/31/25

# IRC § 170 v. IRC § 642(c)

- The charitable deduction under IRC § 170 applies to **individuals**, and has the following limitations:
  - Standard deduction “hurdle”
  - New 0.5% “floor”
  - AGI-based percentage limitations
- The charitable deduction under IRC § 642(c) applies to **trusts and estates**, and only has one limitation:
  - The charitable contribution must be made from fiduciary income

*Donations from Trusts & Estates can be much more income tax efficient.*

# Non-Grantor Charitable Lead Annuity Trust (CLAT)

- A non-grantor CLAT makes annual fixed annuity payments to charity for a specified term and the remaining trust assets can be paid to family members.
- CLATs can be an efficient estate and GST tax planning tool for a charitably inclined family.
- The annual charitable contribution made by the CLAT provides an IRC § 642(c) income tax deduction to the trust; the OBBBA increases the tax-efficiency of CLATs.

# Charitable Remainder Trusts (CRT)

- A CRT makes annual payments to the settlor or other family members for a certain term of years and then pays whatever is remaining in the trust to charity.
- The taxpayer who settles a CRT receives a large income tax deduction in the contribution year; this effectively accelerates and combines the family's future charitable intent into a single year which may be more tax efficient after the OBBBA.
- The CRT may help a family navigate post OBBBA complexity:
  - OBBBA added deduction phaseouts: Tips, Overtime, Senior, Car interest, & SALT
  - Many other income-based surtaxes, deductions, and credits
  - Standard bracket management issues
  - 12/31/2026 TCJA opportunity zone deferral forced recognition

# PEASE Limitation

## *Modification*

- The TCJA suspended the overall limitation on itemized deductions (the PEASE limitation)
- The bill re-introduces and modifies the limitation (effective 2026+)
  - The new formula is as follows:

$$\text{Reduction} = \frac{2}{37} \times \text{the lessor of}$$

*Total Itemized Deductions*

*Total taxable income, plus itemized deductions, subject to the 37% bracket*

OBBBA § 70111

# Itemized Deduction

## *Timing Issues*

- Further increase of standard deduction
- SALT phaseout
- New charitable deduction floor
- New overall limitation on itemized deductions
- Interaction of itemized deduction phaseouts (AGI based) and 199A phaseout (taxable income based)

# 4. Tax-Advantaged Saving Accounts

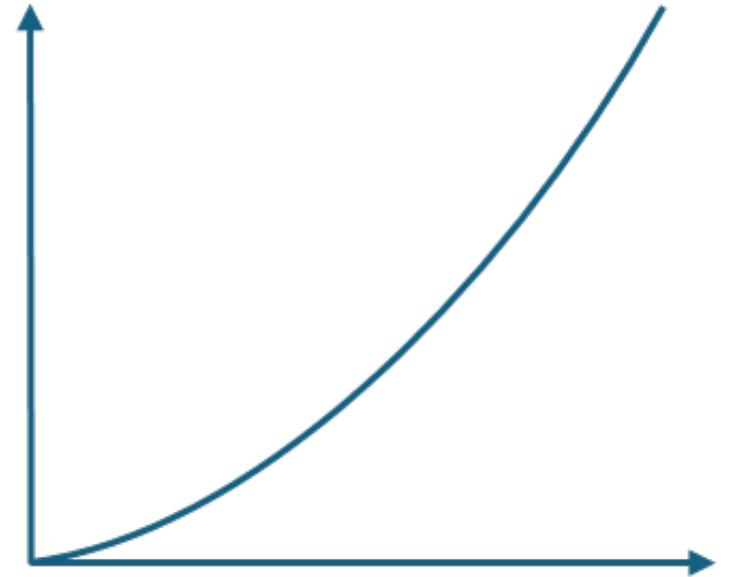
# TRUMP Accounts

- New tax-exempt account (like an IRA)
- Beneficiary must not have yet attained age 8 at the establishment of the account
- Contribution limits
  - Cash contributions will be accepted starting 1/1/26
  - \$5,000 per year (contributions from tax exempt entities can exceed the limit)
  - Contribution limit adjusted annually for inflation
  - No further contributions after the beneficiary attains age 18
  - Broad eligibility regarding who contribute to the account, including federal, state, local and tribal governments and private foundations
  - Employer contributions to accounts excluded from income up to \$2,500 annually

OBBBA § 70204

# TRUMP Accounts

- Investment Limitations
  - Must track a well-established index or diversified portfolio of US equities
  - No leverage
  - Minimal fees and expenses
  - Other criteria will be established by Treasury

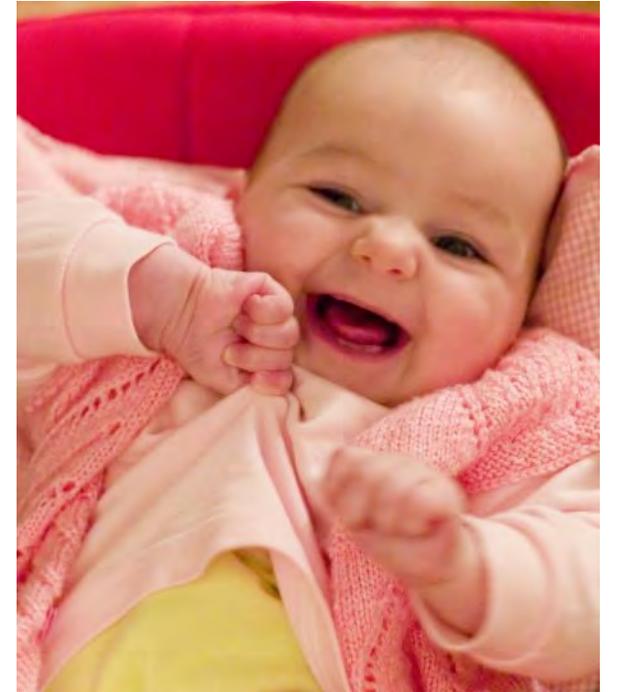


# TRUMP Accounts

- Trustee-to-trustee rollovers allowed
- If the beneficiary dies before distribution, the account is immediately recognized as taxable income by the successor beneficiary or on the beneficiary's final 1040 (HSA rules)
- Duplicate accounts subject to an excise tax equal to 100% of account income
- Excess contribution taxes apply

# TRUMP Accounts

- Contributions by the federal government
  - One time account credit of \$1,000
  - Eligible individuals born in: 2025, 2026, 2027, & 2028



OBBBA § 70204

# Inter-generational Wealth Transfer

## *Using Tax Preference Accounts*

- Retirement accounts
- 529 / QPT accounts
- ABLE Accounts
- Trump Accounts
- Roth IRAs



# 5. Scholarship Donation Tax Credit

# Tax Credit for Contributions to Scholarship Granting Organizations

- The bill creates a credit for contributions to organizations which grant scholarships to elementary and secondary schools
- 100% dollar-for-dollar credit
- Limited to the greater of: 10% of AGI or \$1,700

# 6. Section 199A QBI Deduction

# 199A

## *Made Permanent & Other Modifications*

- The bill makes the 20% QBI deduction permanent
- The bill increases the phase-out range of the SSTB / Wage & Capital limitations from \$50,000 currently to \$75,000
  - For those married filing jointly the phase-out range is increased from \$100,000 to \$150,000
  - The increased phase-out range applies 2026+
- The bill also includes a minimum deduction of \$400 for taxpayers with at least \$1,000 of QBI from one or more active trades or businesses in which the taxpayer materially participates; this will be available 2026+

# 199A

## *Phase-in of Wage & Capital Limits & Phase-out of SSTB QBI*

| Filing Status             | Threshold Amount | Phase-in Range | Full Limitations Apply |
|---------------------------|------------------|----------------|------------------------|
| 2025 MFJ                  | \$ 394,600       | \$ 100,000     | \$ 494,600             |
| 2025 All other Taxpayers  | \$ 197,300       | \$ 50,000      | \$ 247,300             |
| 2026 MFJ*                 | \$ 406,000       | \$ 150,000     | \$ 556,000             |
| 2026 All other Taxpayers* | \$ 203,000       | \$ 75,000      | \$ 278,000             |

\*2026 Threshold Amount is a rough estimate of 2025 inflation

Note, the taxpayers with income just over the phase-in range receive relatively harsh treatment.

# Trust Planning Example

## *Family Involved in Rental Real Estate*

Richard and Delores, a married couple, acquired about 500 apartment units between 1975 and 1990. These are managed by others and they pay no wages. The Qualified Business Income from this activity is about \$1,900,000 and their total taxable income is about \$2,200,000. The original basis of the improvements is fully depreciated, so they have a minimal amount of qualified property; about \$750,000. Based on these facts, below is a summary of their QBI deduction:

QBI Deduction = Lesser of:

(a) 20% of net business income:  $\$1,900,000 \times 20\% = \mathbf{\$380,000}$

(b) 20% of taxable income:  $\$2,200,000 \times 20\% = \mathbf{\$440,000}$

(c) greater of: (i) 50% of W-2 wages ( $\$0 \times 50\% = \$0$ ) or (ii) 25% of W-2 wages plus 2.5% of unadjusted cost basis of assets:  $[\$0 \times 25\%] + [\$750,000 \times 2.5\%] = \mathbf{\$18,750}$

# Trust Planning Example

## *Family Involved in Rental Real Estate*

Richard and Delores, gift interests in the entities which own the properties to 15 trusts set up for each of their four children and 11 grandchildren. The Qualified Business Income and taxable income for each of these trusts is approximately \$126,667. This is less than the Threshold Amount and therefore the limitation does not apply:

QBI Deduction = Lesser of:

(a) 20% of net business income:  $\$126,667 \times 20\% = \mathbf{\$25,333}$

(b) 20% of taxable income:  $\$126,667 \times 20\% = \mathbf{\$25,333}$

# 7. Increased Business Expensing

# Bonus Depreciation *Extension*

- 100% bonus depreciation re-instated
- The Senate bill applies to property placed in service 1/20/25+ (permanent)
- Numerous other date changes for specialized industries



# Section 179 Expensing

- The TCJA increased eligibility for 179 expensing:
  - Increased the limit on the amount of property which can be expensed to \$1,000,000
  - Increased the limitation on property placed in service which caused the expensing election to be phased out to \$2,500,000
- The bill increases:
  - The limit on property which can be expensed to \$2,500,000 and
  - The limitation at which the 179 deduction begins to phase-out to \$4,000,000
- The effective date is taxable years beginning after 12/31/24 (i.e. permanent & retroactive)

# Bonus Depreciation v. 179 Expensing

- Any difference between bonus depreciation & Section 179 is generally immaterial for most small businesses, but there are some nuisances
  - Section 179 generally has more limitations, but simply switching to bonus depreciation usually creates the same or better economic result
  - State income tax law conformity varies; for example, more states conform with 179 expensing than bonus depreciation
  - Section 179 provides a few specific expensing opportunities for commercial buildings
- Remember, it may be prudent to elect out of bonus / 179 to spread out deductions and thereby possibly offset a higher tax rate

# Qualified Production Property

- Qualified Production Property receives a depreciation deduction equal to 100% of adjusted basis in the year placed in service.
- Qualified Production Property does not include property eligible for Bonus Depreciation
- Qualified Production Property deductions are allowed in computing AMT

# Qualified Production Property

- Qualified Production Property defined:
  - Non-residential real property
  - Used by the taxpayer as an integral part of a qualified production activity
  - Placed in service in the US
  - Original use begins with the taxpayer (exceptions for unused / adaptive reuse sites)
  - Excludes office and similar space
  - Construction begins after 1/19/25 and before 1/1/29
  - Construction completed before 1/1/31
  - Taxpayer elects this section to apply

# Qualified Production Property

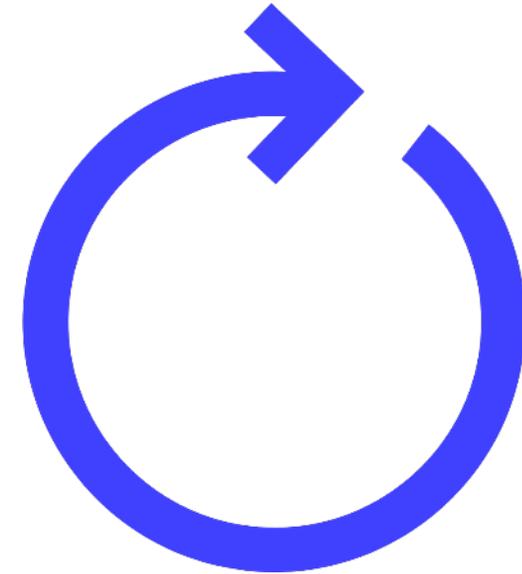
- Qualified Production Activity defined:
  - Manufacturing, production or refining of a qualified product
    - Production limited to agricultural & chemical production
    - Food and beverages prepared in retail establishment excluded
    - Qualified product means any tangible personal property
  - Must result in a substantial transformation of the property comprising the product



OBBBA § 70307

# Qualified Production Property

- Recapture
  - If at any time during the 10-year period after the QPP is placed in service,
  - The property ceases to be QPP,
  - Section 1245 recapture is applied,
  - By treating the property as disposed.



# Qualified Production Property

## *Issues & Unknowns*

- Recapture during the first 10-years is potentially taxed at a higher rate: 37% v. 25%
  - Creates uncertainty for taxpayers with a shorter planning horizon
  - Non-issue for taxpayers taxed as a C-corporation
- Additional concerns which Treasury/IRS will answer with regulations and guidance:
  - Treatment if the property is sold, but continues to be QPP
  - 1031 treatment & NOL carryforwards
  - Reactivated and adaptative re-use sites
  - Exact scope of Qualified Production Activity (QPA)
  - Related party and non-related party leased property

# Section 461(l)

## *Made Permanent*

- The TCJA added Section 461(l) which provides for a limitation on excess business losses
- Section 461(l) has been modified several times since the TJCA, but the limitation was scheduled to sunset year-end 2028
- The bill makes the limitation permanent



# Business Expensing

## *For Trusts & Estates*

- Passive activity loss limitations (§ 469) are a significant issue
- Section 461(l) applies to trusts & estates
- Holding S-corporations in trust is more complicated than a partnership or C-corporation, but will often be more tax efficient

# 8. Opportunity Zones & QSBS Expansion

# Opportunity Zones

- Adds a new round of QOZ designations
  - Governors will designate a new set of tracts
  - Reduces census tract eligibility from 80% of statewide median family income to 70% (tracts with a poverty rate of 20%+ also eligible)
  - Excludes census tracts with a median family income of 125% of the statewide average (provides a metro-area test as well)
  - Removes eligibility for census tracts which qualify due to being contiguous with a qualifying census tract
  - **The bill makes the provision permanent and provides for a decennial designation, deferral and recognition timeline**

# Opportunity Zones

- Dates up Next:
  - TCJA OZ deferral forced recognition 12/31/26
  - OBBBA OZ deferral starts 1/1/27

\*It does not appear the old forced recognition date overlaps with the new deferral period



OBBBA § 70421

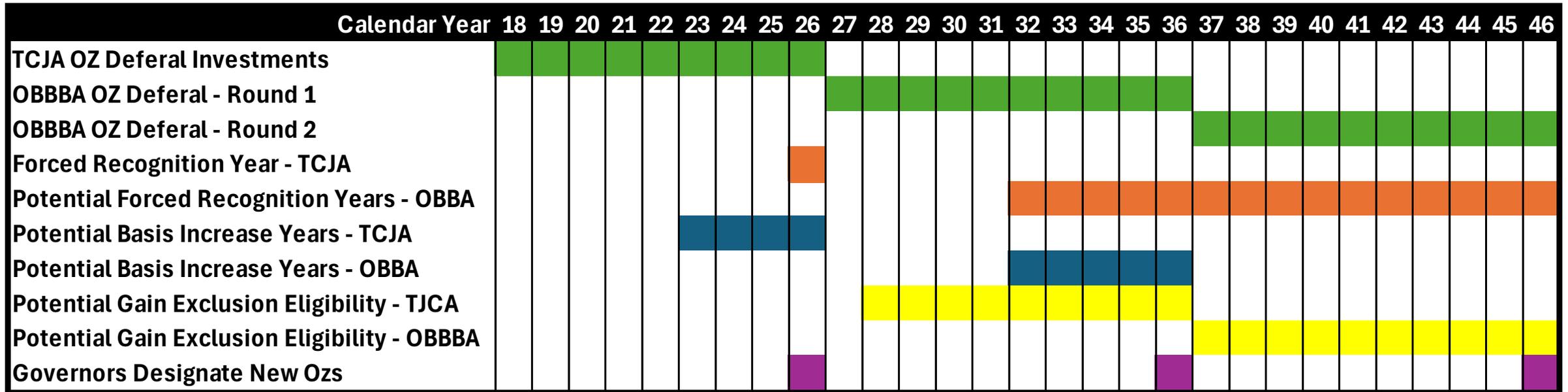
# Opportunity Zones

- Deferral Benefit
  - Capital gains rolled over to TCJA TOFs in calendar years 2018-2026 will be recognized 12/31/26 (applies to all investments)
  - OBBBA QOF investments made starting 1/1/27 receive 5-year deferral benefit (e.g., if \$100,000 of gain is investment in 2027, the taxpayer will report \$100,000 of capital gain in 2032)
  - The 5-year deferral structure implies that it may be possible to rollover gain indefinitely by continuing to make new QOF investments

# Opportunity Zones

- Basis Increase & Exclusion Structure
  - If the investment is held for at least 5-years, basis is increased by 10% of the original investment (TCJA law provided for up to a 15% increase)
  - Rural opportunity zone investments receive a 30% increase – new incentive
  - Exclusion of post-investment appreciation for investments held for at least 10-years was retained, but limited to the FMV 30-years after the initial investment

# Opportunity Zones



OBBA § 70421

# Opportunity Zones

- Qualified Rural Opportunity Fund:
  - Holds at least 90% of its assets in property:
    - Substantially all the use of and holding period was in a rural QOZ
    - QOF interest in a rural business in a QOZ qualifies
  - 100% of basis rule for substantial improvement to QOZ property reduced to 50% for rural property



# Opportunity Zones

- The bill provides for additional reporting requirements



# Managing 12/31/26 Forced Recognition

- Any capital gain deferred using TCJA QOFs will be recognized as taxable income on 12/31/2026.
- The capital gain deferred under TCJA OZ law retains its original character (e.g. deferred gain from the sale of a marketable security in 2019 is taxed as gain from the sale a marketable security as if it was sold 12/31/2026).
- Ideas to manage 12/31/26 forced recognition:
  - Charitable contributions
  - Business property investments
  - Loss harvesting
  - General partnership interests in oil and gas
  - Delaying income
- OBBBA QOF deferral is not available until 1/1/27

# Deferral of LTCG to 2027

## *Potential Ideas*

- IRC § 453 installment sales
- Charitable Remainder Trusts
- Volatility reduction for marketable securities:
  - Protective put options
  - Cashless or monetizing collars
  - Short sales against the box
  - Variable forward sales
  - Exchange funds

# QSBS Expansion

- The bill makes the following changes to the Qualified Small Business Stock (QSBS) exclusion:
  - Under current law, the 100% exclusion is available after a 5-year holding period; the legislation adds a tiered exclusion percentage for earlier sales:
    - After 3 years: 50%
    - After 4 years: 75%
    - After 5 years: 100%
  - Increases the exclusion from \$10,000,000 to \$15,000,000
  - Increases the corporate asset cap from \$50,000,000 to \$75,000,000
- The changes would generally be effective to stock issued or acquired in tax-years beginning after enactment

# QSBS Expansion

- Huge “sleeper” benefit in the bill
- Requires a fresh look at using Qualified Small Business Corporations
- Business entity selection decisions must include considering the value of the QSBS terminal exit benefit compared to the annual tax-cost of organizing as a C-corporation

# Conclusion