



# Observations on One Big Beautiful Bill Act – High Net Wealth Individuals / Family Offices

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# Tax Rates / QBI Deduction / Excess Business Loss / Itemized Deductions



# Tax Rates / QBI Deduction / Excess Business Loss Limitation

Tax Rates / Section 199A / Section 461(I)	Observations
<b>Tax Rate Permanence</b>	<ul style="list-style-type: none"><li>Existing individual tax rates and brackets are permanently extended under the OBBBA.</li></ul>
<b>Section 199A – Qualified Business Income Deduction</b>	<ul style="list-style-type: none"><li>Under the OBBBA, the 20% deduction under section 199A with respect to qualified business income is made permanent.</li><li>Adjustments made to the phaseout benefit for SSTB / QBI without wages / UBIA.</li></ul>
<b>Section 461(I) – Excess Business Loss Limitation</b>	<ul style="list-style-type: none"><li>TCJA enacted section 461(I), which provides that, for taxpayers other than C corporations, excess business losses will not be allowed as a deduction in the current year, but instead will be carried over as part of a taxpayer's NOL.</li><li>The OBBBA makes section 461(I) permanent.</li></ul>

# Itemized Deductions

Itemized Deductions	Observations
<b>SALT Changes</b>	<p>In general, the OBBBA increases the cap for the SALT deduction, unless otherwise exempted, to <b>\$40,000 for 2025 (or half such amount for married individuals filing separately)</b>.</p> <ul style="list-style-type: none"><li>• The limitation amount is subject to a phase out by reference to 30% of the excess of a taxpayer's modified gross income over \$500,000 (or half such amount for married individuals filing separately) in 2025, with the modified gross income amount being increased in the same ratios as the limitation amount through 2029.</li><li>• The amount would be \$40,400 for 2026 and the limitation amount for each subsequent year would be 101% multiplied by the limitation amount for the prior year, until 2030, when the limitation amount would go back to \$10,000.</li></ul>
<b>Limits on the Use of Itemized Deductions</b>	<p><b>Itemized deductions are reduced by 2/37 of the lesser of (a) the taxpayer's itemized deductions, or (b) the amount by which (i) taxable income (determined without regard to itemized deductions and ignoring this limitation) exceeds the dollar amount at which the 37% rate bracket begins.</b></p> <ul style="list-style-type: none"><li>• This provision is effective for taxable years beginning after December 31, 2025.</li><li>• Prior to 2018, a different limitation (referred to as the "Pease limitation") had applied to itemized deductions for taxpayers with adjusted gross income that exceeded a specified amount, but that limitation was suspended by the TCJA through December 31, 2025.</li></ul>

# Itemized Deductions (Cont'd)

Itemized Deductions (Cont'd)	Observations
<b>Elimination of miscellaneous itemized deductions.</b>	<b>Makes permanent the elimination of miscellaneous itemized deductions.</b>
<b>Elimination of the deduction for personal exemptions (except for a temporary senior exemption).</b>	<b>Makes permanent the elimination of the deduction for personal exemptions (except for a temporary senior exemption).</b>
<b>Qualified residence interest</b>	<b>Makes permanent the cap on mortgage size for qualified residence interest at \$750,000 (\$375,000 for married filing separately).</b>

# Missing from OBBBA (Non-Exhaustive)

Missing from OBBBA	Observations
<b>Section 1402 – Self Employment Tax</b> <b>Section 1411 – Net Investment Income Tax</b>	No change.
<b>Capital Gain &amp; Qualified Dividend Rate</b>	No change. No “Millionaire’s Tax” implemented.
<b>Carried Interest</b>	No change.
<b>Like-kind Exchange with Real Estate</b>	No change.



# Charitable Giving and Charitable Organizations



# Individual deduction "floor" and enhanced cash gift limit

- The charitable contribution deduction for individuals will only be allowed to the extent that the individual's aggregate contributions exceed .5% of the individual's adjusted gross income (AGI).  
Examples for an individual with \$10M in AGI:
  - Individual gives \$50,000 to charity in 2026. NO deduction.
  - Individual gives \$150,000 to charity in 2027. Deduction: \$100,000.
- The Act makes permanent the temporary individual limitation for contributions to certain charities **of cash**. (Current 60% of adjusted gross income limit was going to expire 12/31/2025).
- Both provisions are effective for tax years beginning after 12/31/25

# Credit for gifts to scholarship organizations

The Act provides a new nonrefundable tax credit (in lieu of a deduction) for certain charitable contributions of cash by individuals to certain charitable organizations providing scholarships to eligible elementary and secondary school students.

- The credit is limited to \$1,700 in a tax year.
- Effective for tax years ending after 12/31/26



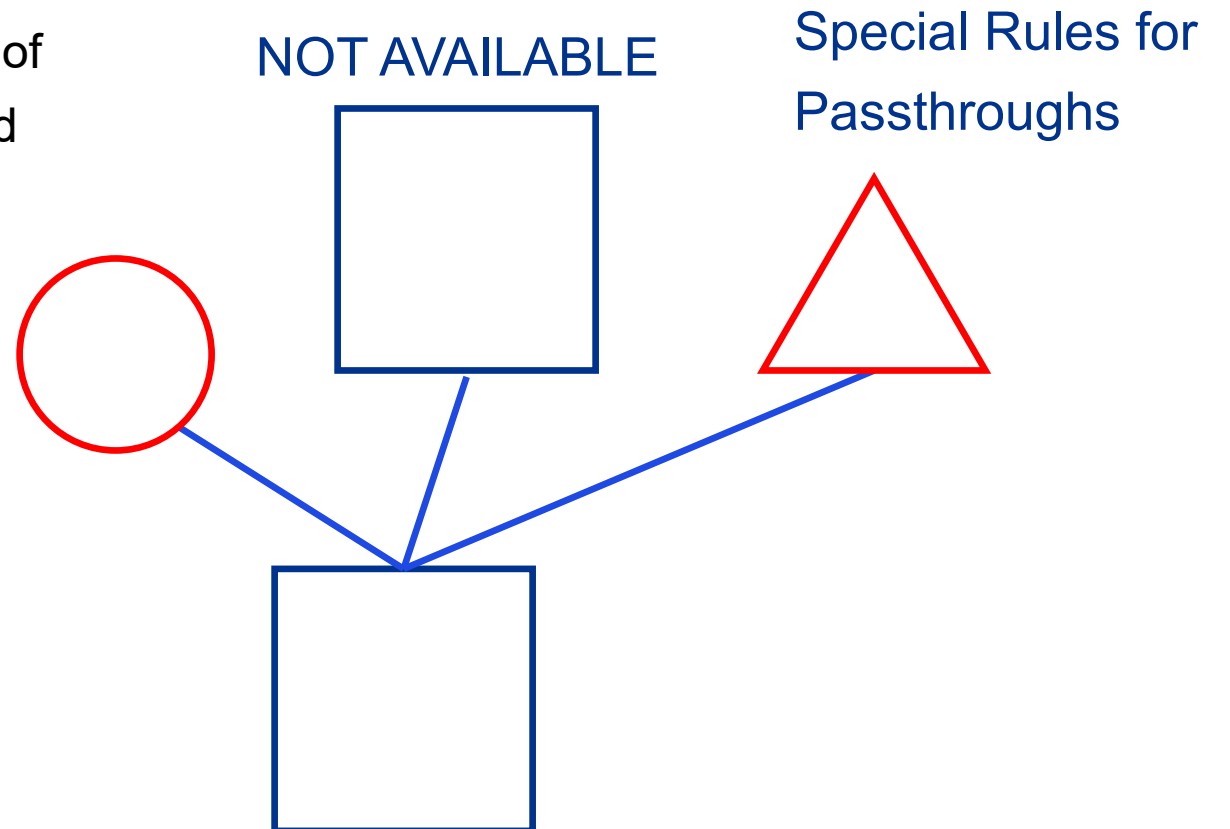
# Qualified Small Business Stock Opportunities



# General Rule – before OBDD

Taxpayer other than a corporation may exclude a portion of the gain from a sale or exchange of Qualified Small Business Stock (“**QSBS**”) held more than five years

Shareholder requirements and corporate requirements – no rule requiring corporate disclosure of information



# Section 1202 Opportunity – Before and After

Date Acquired	Holding Period	Percentage Gain Exclusion	AMT Preference
08/11/1993–02/17/2009	5 yrs	50%	7% of Excluded Gain
02/18/2009–09/27/2010	5 yrs	75%	7% of Excluded Gain
09/28/2010–07/04/2025	5 yrs	100%	None
After 07/04/2025	3 yrs	50%	None
After 07/04/2025	4 yrs	75%	None
After 07/04/2025	5 yrs	100%	None

Limitation	Before OBBBA	After OBBBA*	Effective Date
Applicable Dollar Limitation	\$10,000,000	\$15,000,000	Applicable for stock acquired after 07/04/2025
Aggregate Gross Assets Limit	\$50,000,000	\$75,000,000	Applicable for stock acquired after 07/04/2025

- Both of these new limits are to be adjusted for inflation





# Qualified Opportunity Zone Investments



# Creation of “QOZ 2.0”

- **OBBB creates a new **permanent** QOZ program that generally applies to QOF investments made on or after January 1, 2027.**
- **Under QOZ 2.0, eligible QOZs will be designated every 10 years.**
  - Investments made in a QOF before 1/1/2027 are subject to the current QOZ designations.
  - Beginning on July 1, 2026, new QOZs will be selected by states and designated by Treasury.
    - These QOZ designations will apply to **QOF investments made on or after January 1, 2027 and before January 1, 2037.**
  - Every 10 years after July 1, 2026, the QOZ designation process will be repeated.
- **QOZ criteria is slightly different for QOZ 2.0**
  - Low-income community is now defined in section 1400Z-1.
  - Less census tracts are expected to be eligible.
  - Tracts contiguous to low-income communities are not eligible.
  - New “rural” census tracts will be eligible for enhanced benefits

# Incentives under the QOZ 2.0

## Gain Deferral

- An investor who timely invests in a QOF may defer gains generally for 5 years from the date of the QOF investment (unless an inclusion event occurs).

## Deferred Gain Reduction

- If the investor holds its QOF interest for at least 5 years, the deferred gain is reduced by 10%.
- The reduction can be increased to 30% if investing in a rural QOF.

## Future Gain Elimination

- If the investor holds its QOF interest for at least 10 years but less than 30 years from the date of investment, the investor may elect to step-up the basis of the QOF interest to its FMV on the date of sale.
- If the investor holds its QOF interest for 30 years or more, the investor may elect to step-up the basis of the QOF interest to its FMV on the date that is 30 years after the date of investment.

# Additional Benefits for Rural QOFs

- **QOZ 2.0 is structured to encourage investments in QOFs that are investing in rural areas.**
  - Gain reduction benefit is increased from 10% to 30%
  - Substantial improvement threshold for QOZ business property is reduced from 100% of tax basis to 50% of tax basis
- **A rural QOF (eligible for the additional benefits) is a QOF that holds at least 90% of its assets in QOZ property that is either:**
  - 1) QOZ business property substantially all the use of which is in a QOZ comprised entirely of a rural area; or
  - 2) a QOZB in which substantially all the tangible property owned or leased is QOZ business property substantially used in a QOZ that is comprised entirely of a rural area.
- **A rural area means any area other than:**
  - 1) A city or town that has a population of greater than 50,000 inhabitants; and
  - 2) Any urbanized area contiguous and adjacent to such city or town.



# Transfer Tax Provisions



# OBBBA Transfer Tax Provisions



- Under prior law, the enhanced lifetime exemption (\$13,990,000 for 2025) was only available for transfers made by the end of 2025
- Under the OBBBA, the exemption is now scheduled to be \$15,000,000 in 2026 and will be indexed for inflation going forward
- The Generation-Skipping Transfer Tax exemption amount is determined by reference to the lifetime exemption amount and is therefore also \$13,990,000 in 2025 and increasing to \$15,000,000 in 2026

# Looks can be deceiving

“Our new Constitution is now established, and **has an appearance that promises permanency**; but in this world **nothing can be said to be certain**, except death and taxes.” Benjamin Franklin



- The OBBBA has generally removed the urgency to utilize the increased exemption amount prior to year end
- However, while the current law “has an appearance that promises permanency,” the absence of a sunset provision does not necessarily equate with permanency
- Individuals who can afford to part with \$13.99 million of wealth (or wealth equal to their remaining exemption amount, if less than \$13.99 million) should consider making lifetime gifts to use up any remaining exemption

# Additional Benefits of Transferring Assets Today

- Higher but not traditionally high interest rates
- Continued availability of valuation discounts
- Continued viability of beneficial estate planning ideas – e.g., intentionally defective grantor trusts, zeroed out GRATs and long-term dynasty trusts
- Non-tax benefits of trusts – e.g., asset protection, asset management, control over disposition
- State tax benefits of non-grantor trusts resident only in state with no (or low) income tax – depends on relevant state tax regimes

- Even where gift tax liability will result because lifetime exemption exceeded:
  - Ability to remove future appreciation from estate
  - Historically low tax rate of 40%
  - Tax exclusivity on gift tax paid – the gift tax paid is not subject to gift tax - if survive 3 years from date of gift
  - Ability to use any excess GSTT exemption
- However, individuals should also consider:
  - Loss of step-up in basis on death for assets gifted during life
  - Possibility of full estate tax repeal

# Ways to Utilize Gift and GST Exemptions





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