

## One Big Beautiful Bill Act enacts changes for estate planning

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The One Big Beautiful Bill Act was signed into law on July 4, 2025, enacting significant tax law changes. This client update describes key estate planning-related provisions and highlights important considerations for estate planning clients.

On July 4, 2025, President Trump signed into law the One Big Beautiful Bill Act (the “Act”). Below, we discuss key changes related to gift, estate and generation skipping transfer tax exemptions; the Qualified Small Business Stock capital gain exclusion; charitable giving; and 529 plan accounts. In an earlier [client update](#), we discussed a variety of provisions affecting businesses and individual taxpayers, some of which may be of significant interest to estate-planning clients.<sup>1</sup>

### Permanent increase to federal gift, estate and generation skipping transfer tax exemptions

Among its many changes to the federal tax code, the Act will increase the federal estate, gift and generation-skipping transfer (GST) tax exemption amounts to \$15 million per individual (\$30 million per married couple), with additional inflation adjustments in 2027 and subsequent years. The increased exemption amounts are effective for estates of decedents dying, and gifts made after, December 31, 2025.

This change increases and extends the current historically-high exemption amounts—\$13.99 million per individual in 2025, inflation adjusted—which were part of the 2017 Tax Cuts and Jobs Act (the TCJA) and will expire on December 31, 2025. There is no expiration date on the new \$15 million exemption amounts under the Act.

The federal estate, gift and GST tax regimes otherwise remain largely unchanged by the Act. The highest federal marginal estate, gift and GST tax rate will continue to be 40%. Any unused estate/gift exemption will continue to be “portable” at death to the decedent’s surviving spouse, whereas no portability is available for GST tax exemption, in keeping with prior law.

Also unchanged is the federal gift tax annual exclusion amount—\$19,000 per donee in 2025—which allows the first \$19,000 of qualifying gifts to or for the benefit of a particular donee to be excluded from the donor’s taxable gifts.<sup>2</sup> It is generally a best practice to make use of the federal gift tax annual exclusion amount each year by making qualifying gifts to or for the benefit of individual donees.<sup>3</sup> In addition, donors may continue to make an unlimited amount of direct payments for qualified medical and educational expenses on behalf of any other individual, with no gift tax consequences.

The increased federal exemption amounts will affect certain state level transfer taxes. In particular, Connecticut’s gift and estate tax exemption automatically matches the federal exemption amounts, and therefore will likewise increase to \$15 million after December 31, 2025. It is too soon to predict how other states, such as New York, might adjust their state level transfer taxes in light of the Act. The New York estate tax exemption equivalent is currently \$7.16 million and is phased out for New York taxable estates valued between 100% and 105% of the exemption amount, with no exemption

being available for taxable estates in excess of 105% of the exemption amount. There is currently no New York gift or GST tax, but gifts made within three years of death are subject to New York estate tax.

Estate planning clients should consider, where consistent with other family goals and financial considerations, making lifetime gifts to take advantage of the increased federal gift and GST tax exemption amounts when they become available. Although they are “permanent” insofar as there is no sunset date for these provisions of the Act, a future Congress could substantially lower the exemption amounts. For a discussion of gifting strategies that may be attractive in this context, please see our 2024 client update, available [here](#).

## Expansion of Qualified Small Business Stock capital gain exclusion

Under current law, capital gains from the sale of Qualified Small Business Stock (QSBS) (generally, an original issue of stock in an active, U.S. corporation that is considered a “qualified small business”) are 100% excluded from federal income tax if such stock has been held for more than five years,<sup>4</sup> up to a general cap of \$10 million of eligible gain per issuer.

The Act substantially expands this exclusion going forward. For stock acquired after July 4, 2025, the QSBS exclusion is now applicable to shorter holding periods under the following tiered structure:

- 50% of gain may be excluded for QSBS held at least three years,
- 75% of gain may be excluded for QSBS held at least four years, and
- 100% of gain may be excluded for QSBS held five years or more.

In addition, for stock acquired after July 4, 2025, the aggregate cap on QSBS capital gain exclusion is increased from \$10 to \$15 million of eligible gain per issuer, with additional inflation adjustments in 2027 and subsequent years.<sup>5</sup> The definition of “qualified small business” is also expanded such that, generally, this gain exclusion will apply to the stock of most domestic C Corporations with less than \$75 million in gross assets (again, with additional inflation adjustments in 2027 and subsequent years).

This change creates additional planning opportunities for investors in small businesses, particularly when combined with the higher gift and GST tax exemptions. Such planning may include gifting QSBS to nongrantor trusts, which may be able to take a separate QSBS exclusion when the QSBS in trust is sold.

## Changes relevant to charitable giving

The following changes are effective for tax years beginning after December 31, 2025 for individuals who itemize their income tax deductions and for certain tax exempt organizations.

- **\$1,000 above the line deduction.** Those who take the standard deduction (\$15,750 for an individual in 2026 under the Act or \$31,500 if married filing jointly) will now be able to receive a deduction up to \$1,000 (or \$2,000 if married filing jointly) for charitable contributions to public charities and some other tax exempt organizations.
- **0.5% floor on individual income tax charitable deduction.** The Act imposes a new hurdle for individuals who itemize their deductions to utilize the income tax deduction for contributions to charity. Specifically, the individual income tax charitable deduction will be available only to the extent the aggregate amount of charitable contributions made by an individual exceeds 0.5% of such individual’s “contribution base” (i.e., a donor’s adjusted gross income before certain losses) for that year. Contributions disallowed by the 0.5% floor are carried over to subsequent tax years only from years in which the floor is exceeded.
- **Permanent 60% contribution base limitation on individual income tax charitable deduction for cash gifts to public charities.** The Act makes permanent the rule limiting an individual’s income tax charitable deduction in a given tax year for cash gifts made to public charities to 60% of the donor’s contribution base (up from 50% before the TCJA). The 30% limitation for cash gifts made to private foundations remains unchanged from prior law.
- **Overall limitation on itemized deductions.** For taxpayers in the highest tax bracket, any itemized deductions taken, including charitable contributions, will be capped at 35% of the total allowable deductions (such that each dollar of allowable deductions will be capped at \$0.35).

# Expanded qualifying expenses for 529 plan accounts

Generally, 529 plans allow tax-free, penalty-free distributions only for qualified educational expenses, which in prior years has included tuition for elementary, secondary and post-secondary educational institutions, as well as other required fees, books, supplies and equipment in connection with attendance at a post-secondary educational institution. The Act expands the category of qualifying educational expenses related to attendance at an elementary and secondary public, private or religious schools, which after July 4, 2025 also includes expenses for tutoring, educational therapy for students with disabilities, standardized testing fees, college admission examinations, and advance placement exams, as well as books and other educational materials. In addition, for tax years beginning after December 31, 2025, the Act increases the annual limit on tax-free, penalty-free distributions for such elementary and secondary educational expenses from \$10,000 to \$20,000. Note, however, that state laws on qualified educational expenses may vary. For example, New York State treats elementary and secondary educational expenses as nonqualified withdrawals, and withdrawals from a New York State 529 plan for such expenses would require the recapture of any New York State tax benefits that accrued on the contributions and may be subject to New York State income tax in certain circumstances.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

**Jillian E. Merns**

+1 212 450 3083  
jillian.merns@davispolk.com

**Paula A. Ryan**

+1 212 450 4611  
paula.ryan@davispolk.com

**Lucy McKinstry Taylor**

+1 212 450 3112  
lucy.taylor@davispolk.com

**Kate (Catherine) Ford**

+1 212 450 3384  
kate.ford@davispolk.com

**Pesach Herbstman**

+1 212 450 3840  
pesach.herbstman@davispolk.com

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- <sup>1</sup> These provisions include a temporary increase in the cap on the state and local tax (SALT) income tax deduction, an additional limitation on certain itemized deductions for high-income taxpayers, and making certain provisions of the TCJA permanent—namely, the individual income rate structure with top rate of 37% (previously 39.6% before the TCJA), the expanded standard deduction, the disallowance of miscellaneous itemized deductions, the qualified business income deduction (Section 199A deduction), and bonus depreciation for certain business property.
- <sup>2</sup> For gifts made by a U.S. citizen or domiciliary to his or her non-U.S. citizen spouse, the annual exclusion amount is \$190,000 in 2025.
- <sup>3</sup> Examples of qualifying gifts include outright gifts to an individual donee, contributions to a 529 account, custodial account or minority trust for the benefit of a particular individual donee, and gifts to a “Crummey” trust which grants the particular donee a withdrawal power over the gifted assets.
- <sup>4</sup> This 100% exclusion only applies to stock acquired after September 27, 2010 and on or before July 4, 2025. The exclusion is 50% or 75% for stock acquired before September 27, 2010.
- <sup>5</sup> In certain circumstances, a higher exclusion may be available based on the individual's aggregate adjusted basis in the stock sold (up to ten times such aggregate adjusted basis). Note: the inflation adjustments are not applicable after a taxpayer has reached the cap with respect to a specific issuer.