HOW ESTATE PLANNING AND OTHER TAX ITEMS ARE AFFECTED BY THE ONE BIG BEAUTIFUL BILL ACT (OBBBA)

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Introduction *(continued)*

- The One, Big, Beautiful Bill
  - Proposed by the 2nd Trump Administration in May, 2025 and signed by President Trump on July 4, 2025
  - Seeks to extend and modify many provisions of the TCJA that are currently scheduled to expire after 2025.
  - The bill contains numerous sections organized under three main subtitles:
    - "Make American Families and Workers Thrive Again,"
    - "Make Rural America and Main Street Grow Again," and
    - "Make America Win Again."

Expiring Provisions of the Tax Cut and Jobs Act

Expiring TCJA

- Key Provisions of TCJA set to expire and revert back to pre TCJA:

Individuals

  - Lower income tax rates
  - Increased standard deduction
  - Increased Alternative Minimum Tax (AMT)
  - Increased Child Tax Care Credit
  - Reduced SALT deduction Cap
  - Reduced Mortgage Loan deduction Cap
  - Increased Estate & Gift Tax Exemptions

Expiring TCJA

Businesses

- Section 199A QBI deduction
- Bonus Depreciation (TCJA actually phased this out)
- Interest deduction limitation (Section 163(j))
- Limits on net operating loss (NOL) deductions (carry backs)

- Permanent Corporation Tax Rate Cut- 35% down to 21%

The One, Big, Beautiful Bill Act

Introduction *(continued)*

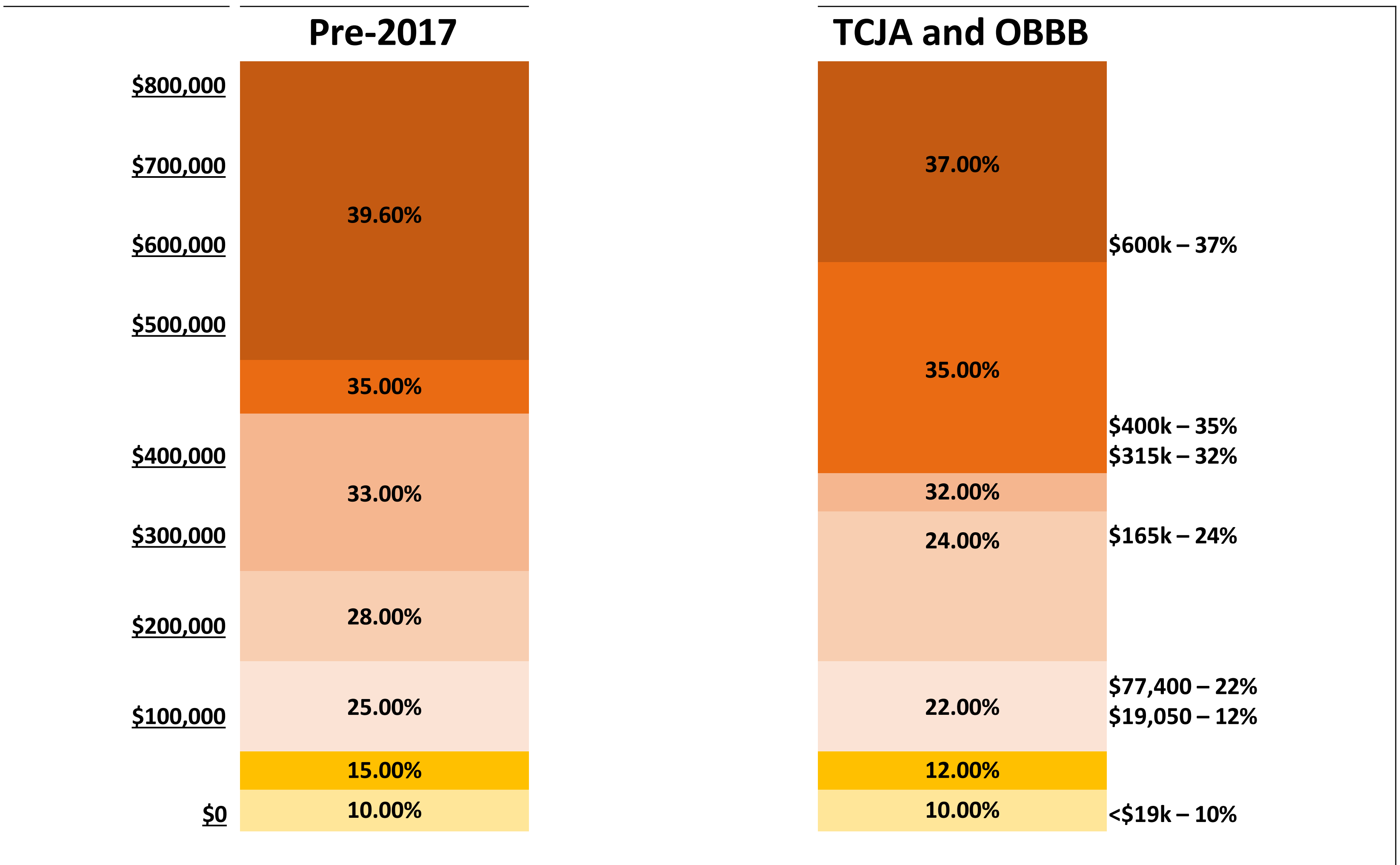
- The One, Big, Beautiful Bill
  - Generally:
    - addresses individual and business tax provisions, specifically targeting families, workers, rural communities, and businesses
    - It would extend reduced tax rates, increase standard deductions, and expand child tax credits, while permanently eliminating certain deductions and exemptions that were temporarily suspended under the TCJA.
    - Introduces new deductions for tips and car loans.

Introduction *(continued)*

- As a general rule, tax rates reduced in 2017 TCJA are extended.
- Passthroughs are eligible for a 20% QBI deduction.
- Estate, gift and GST exclusion amount increased to approximately $15 million per person for 2026, increased for inflation.
- Corporate Tax rate is unchanged as it was permanent in 2017.

Income Tax Changes

Rate Changes – Income Tax



Changes – continued

- Standard Deductions Extended and Increased through 2028:
  - Pre-TCJA (2026*)

Single	MFJ/QW	MFS	HOH
$8,300	16,600	8,300	$12,250

  - TCJA (2025 inflation indexed from TCJA)

Single	MFJ/QW	MFS	HOH
$15,000	30,000	$15,000	$22,500

  - OBBBA (2025)

Single	MFJ/QW	MFS	HOH
$16,000	$32,000	$16,000	$24,000

Estates and Trusts Income Tax

- Rates stay the same
- 10% of taxable income up to $2,550
- 24% over $2,550 but less than $9,150
- 35% over $9,150 but less than $12,500
- 37% over $12,500

Family Changes– Income Tax

- **Increase to Child and Family Tax Credits:**
  - TCJA increased the Child Tax Credit increased from $1,000 to $2,000 per child.
  - OBBBA increases CTC to $2,200 per child, but requires the child and one of the parents to have SSN and must have $2,500 earned income threshold.
  - Make permanent $500 “Other Dependent Credit.”
  - $400k AGI MFJ phaseout

Trump Accounts

- “Trump Accounts” for kids –
  - $1,000 government contribution for children born between January 1, 2025 and December 31, 2028.
  - Treated akin to retirement accounts under § 408(a).
  - Parents can contribute up to $5,000/year, indexed for inflation. Employer can contribute $2,500/year
  - Allows rollover to ABLE accounts at age 17, no contributions after 18
  - Normal IRA distribution provisions apply regarding taxation, etc.
    - Example - Home purchase and education withdrawals not taxable

Itemized Deductions– Income Tax

- **Pease limitations – Permanently changed**

– Effective after 12/31/2025, limitations in itemized deductions is permanently repealed and replaced by a new rule reducing deductions by 2/37 of the lesser of:

  - Taxpayer’s itemized deductions; and
  - Taxable income exceed the 37% bracket.

– This applies after all other deduction limits and does not apply for purposes of QBI deduction

Permanent Exclusion for Student Loan Discharges Due to Death or Disability

- Makes permanent the exclusion from gross income for discharged student loans due to the borrower's death or total and permanent disability
- Borrower must provide a valid social security number to qualify for the exclusion
- This was set to expire after 2025.
- Discharge must not be due to services provided to the lender.

Charitable Deduction for Non-itemizers

- Adds a new deduction for charitable contribution (above the line) for individuals who take the standard deduction

- Excludes gifts to donor advised funds and supporting organizations.
- Begins for 1/1/2026 tax years.
- Limitations is $1k per person or $2k if MFJ

Car Loan Interest Deduction

- Adds a new above-the-line deduction for up to $10k of interest paid on post 2024 loans for new, US assembled passenger vehicles
- Applies only to noncorporate taxpayers for 2025-2028
- Applies to first-lien debt used to purchase a new car, SUV, truck or motorcycle for personal use, if assembled in US.
- Phaseout begins at $200k MFJ MAGI
- VIN must be reported on return.
- Ineligible vehicles include used, salvage, fleet, or scrap-purpose vehicles.
- No deduction for loans from related parties. Some financing permitted.

Gambling Losses

- Gamblings losses have a new limitation
  - Section 165(d) now provided that deduction is limited to 90% of the loss amount, effectively requiring taxable income anytime there is losses

Long-Term Capital Gains and Qualified Dividends Top Rates

- Rates on long term capital gains and qualified dividends remain unchanged.
- 3.8% net investment income tax remains.
- 20% top rate, if earn more than:
  - $533,400 if filing single
  - $600,050 if married filing joint
  - NIIT applies at $200,000/$250,000 (not indexed for inflation)

Qualified Tips Deduction

- Creates a temporary individual income tax deduction for up to $25,000 of qualified tips received in 2025 – 2028.
- Available to employees and nonemployees that customarily receive tips by 12/31/2024.
- IRS issued proposed regulations on September 19, 2025, further clarifying the rules. (REG-110032-25)
- Lists 68 different tipped occupations that qualify for the deduction.
- Comment period closes October 23, 2025

Qualified Tips Deduction (continued)

- Qualified tips must be paid in cash or an equivalent medium, such as check, credit card, debit card, gift card, tangible or intangible tokens that are readily exchangeable for a fixed amount in cash, or another form of electronic settlement or mobile payment application (excluding most digital assets) denominated in cash.
- Qualified tips must be received from customers or, in the case of an employee, through a mandatory or voluntary tip-sharing arrangement, such as a tip pool.
- Qualified tips must be paid voluntarily by the customer and not be subject to negotiation. Qualified tips do not include some service charges. For instance, in the case of a restaurant that imposes an automatic 18% service charge for large parties and distributes that amount to waiters, bussers, and kitchen staff, if the charge is added with no option for the customer to disregard or modify it, the amounts distributed to the workers from it are not qualified tips.
- Any amount received for illegal activity, prostitution services, or pornographic activity is not a qualified tip.

Qualified Tips Deduction (continued 2)

- Married filing separately taxpayers are not eligible for the deduction.
- Tips from SSTBs (from QBI deduction listing) do not count towards the Tips deduction
- Deduction does not apply to FICA/FUTA taxes
- Occupations include – bartenders, wait staff, chefs and cooks, bakers, gambling dealers, dancers, musicians and singers, entertainers and performers, digital content creators, ushers, locker room attendants, bellhops, hotel maids, landscapers, plumbers, electricians, photographers, massage therapists, golf caddies, etc.

Business Tax Changes

Rate Changes – Corporate Tax

Pre- 2017 Rates

• $0 - $50,000	**15% rate**
• $50,001 - $75,000	**25% rate**
• $75,001 - $10,000,000	**34% rate**
• $10,000,000 +	**35% rate**

TCJA and OBBBA Rates

• $0 – maximum	**21% rate**

Bonus Depreciation and Expensing

- Makes permanent 100% bonus depreciation for “eligible property” acquired after January 19, 2025
- Other eligibility criteria same as current law
- Section 179 expensing limit expanded from $1 million to $2.5 million with a $4 million phaseout (up from $2.5 million) for property placed in service after December 31, 2024
- SUV expensing cap remains at $25k

Qualified Production Property

- Creates 100% depreciation allowance for US nonresidential real property used as an integral part of qualify production activity
- To qualify, construction must begin after January 1, 2025, and before January 1, 2029, and must be placed in service before January 1, 2031.
- Qualified production activity = manufacturing, production or refining of tangible personal property (other than food or beverages products prepared and sold onsite) that results in “substantial transformation” of the property; “production” limited to agricultural and chemical production.
- Lookout for depreciation recapture rules

QBI Provisions

- Section 199A passthrough deduction is now made permanent.
- Rate stays at 20%, although House version had the rate increase to 23%
- Existing phase out increases from $50k to $75k ($100k to $150k for MFJ)
- Still have SSTBs that begin to lose the deduction, start phaseout at $394,600 MFJ and completely phases out at $494,600.
- Higher of (1) W-2 wage limitation (50%) or (2) wages and basis of property limitation apply (25% of wages and 2.5% of UBIAA of qualified property)
- If taxpayer has QBI of at least $1,000, then there is a minimum $400 deduction as long as
    - Taxpayer materially participates (officially linked to § 469 now)
- New changes take effect 1/1/2026

Qualified Overtime Pay Deduction

- Creates a temporary income tax deduction for up to $12,500 single or $25,000 MFJ of qualified overtime pay received annually from 2025 – 2028. No deduction after 2028.
- Applies to FLSA mandated overtime reported on W-2 or 1099-NEC.
- Phases out between $150k - $275k MAGI ($300k - $550k MFJ)
- Deduction disallowed if SSN is missing
- Overtime must be reported separately on W-2 or 1099-NEC.
- How much planning can you do under $300k? $25k benefit on $300k of income, less than a 10% deduction. Not as much as QBI.

Qualified Small Business Stock Exclusion

- Restructures QSBS stock exclusion
  - 50% exclusion after 3 years
  - 75% exclusion after 4 years
  - 100% exclusion after 5 years
- Raised per-issue cap from $10 million (pre 7/4/25) to $15 million (after 7/4/25), indexed for inflation
- Increases gross asset ceiling from $50 million to $75 million post 7/4/25, indexed for inflation
- Applies only to stock acquired or issued after July 4, 2025

QOZ Updates

- Creates new OZ investment opportunities for capital gain for years recognized after December 31, 2026.
- Basically, old rules stay the same, but new rules start for January 1, 2027.
  - Replaces original one-time designation model with recurring 10 year QOZ terms starting July 1, 2026 (updated maps)
  - Gain recognized earlier of year of sale or 5 years after investment date
- Old rule – 15% step up for 7 year hold period, 10% for 5 year period
- New rule – 10% basis step up after 5 year period
- New rules about a QOZ not having family medium income exceeding 70% of the state family median income, or have at least a 20% poverty rate
- Applies only to stock acquired or issued after July 4, 2025

QOZ Updates (continued 2)

- Adds a new Qualified Rural Opportunity Fund which provides greater tax benefits to investors, which includes a 30% basis step up for investments held more than 5 years (3x normal QOZ basis step up)
  - Reduced substantial improvement requirement, only need to have a reinvestment of 50% of property's adjusted basis instead of 100% requirement in the standard QOZ fund
  - Rural means population under 50k or urban area next to city with population of 50k.
  - Instead of 2047 holding requirement, it's now 30 year window but still requires it to be held for 10 years for tax-free sale treatment.
- Additional returns must be filed and additional penalties apply. Don't screw this up!!

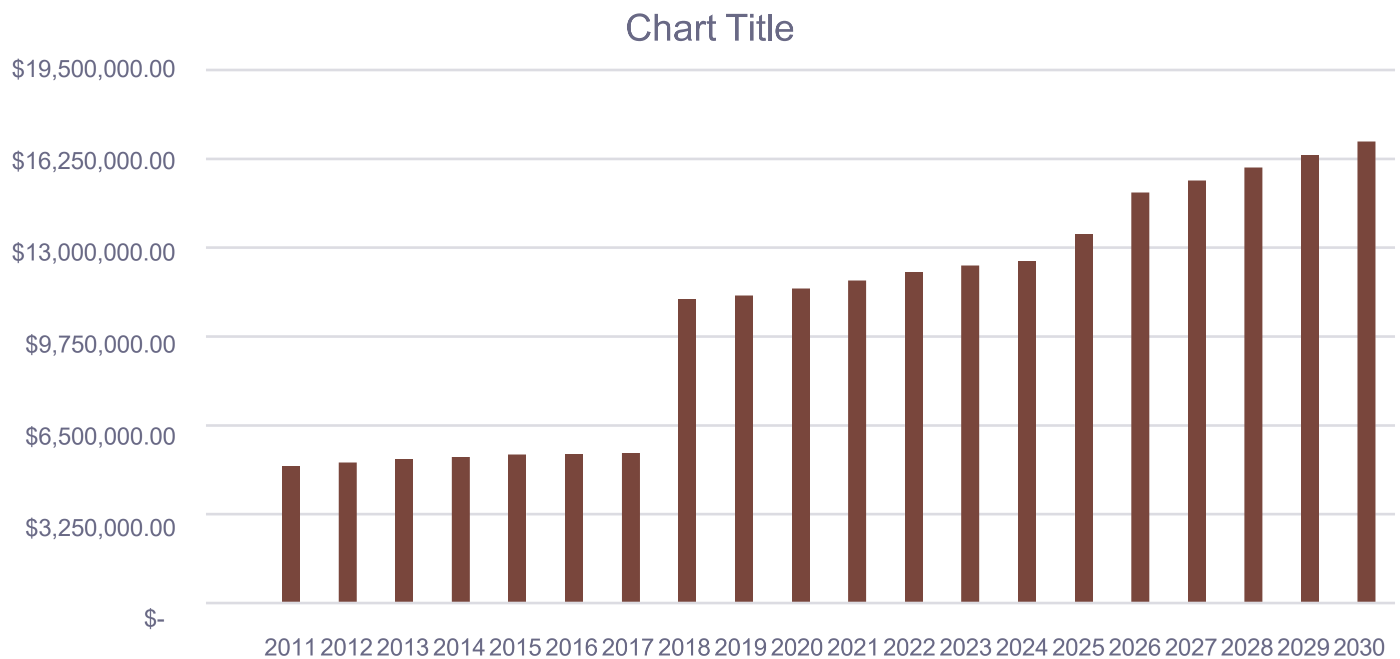
Other interesting items

- TCJA provided a $10k SALT cap, which has been increased to $40k through 2028 but then reverts to $10k after 2029.
- Deduction for employer provided meals (convenience) and snacks were fully deductible under prior law. These deductions are now fully disallowed, but they may be excluded from employees' income.
- Home mortgage interest deduction and mortgage insurance premium – makes permanent the TCJA limit of $750k MFJ of acquisition indebtedness for qualified residences (post 12/15/17), eliminates reversion to $1 million cap. Nondeductible unless used to buy, build or substantially improve the home.
- Mortgage interest premiums paid to FHA, VA, USDA/RHS or private insurers are deductible as qualified residence interest.

Estate Tax Changes

Rate Changes – Estate Tax

- Exemption set at $13,990,000 (2025) was set to revert to approximately $7,000,000
- OBBBA increases to $15 million in 2026 and is adjusted for inflation going forward



With The Exemption Permanency,

How Do We Plan?

MAP Trusts

- MAP trust:
  - In 2014 the Tennessee Trust Code was amended to include Marital Asset Protection Trusts.
  - Property of a husband and wife conveyed to the trustee of one or more trusts has the same immunity from the claims of their separate creditors as if the husband and wife had continued to hold the property or its proceeds as tenants by the entirety.
  - There are five requirements for the protection to be available: (1) the spouses remain married; (2) the property or its proceeds remain in the trust(s); (3) the trust(s) is (are), while both settlors are living, revocable by either settlor or both settlors acting together; (4) both spouses are permissible current beneficiaries of the trust(s) while living; and (5) the trust instrument, deed or other instrument of conveyance provides that this section applies to the property or its proceeds.

MAP Trusts

- MAP trust:
  - The property must be conveyed as TBE property, not from one spouse separately.
  - The property may be transferred to one spouse's revocable trust, a joint revocable trust or separate his-and-her revocable trusts.
  - Immunity can be waived voluntarily (for example, to pledge assets for a loan) or involuntarily (by failure to disclose properly the application of the section).
  - Transfer of TBE property to a MAP trust has no effect on the division of the property if the couple divorces.

MAP Trusts

- MAP trust:
  - After the first spouse's death, separate creditors of the surviving spouse may reach MAP trust assets only to the extent that the surviving spouse remains a beneficiary of the trust and possesses a non-fiduciary power to vest title to property in himself/herself individually.
  - Even if the surviving spouse is the sole trustee, if he or she does not have the unilateral right in his or her individual capacity to force distribution of the property to himself/herself, the trust property will continue to be protected from the survivor's creditors. Thus, married couples should consider transferring TBE property to MAP trusts if for no other reason than to strengthen asset protection.
  - Married couples might choose between MAP trust treatment and elective Community Property Trust treatment.

Community Property Trusts

Community Property Trusts

- Community Property Trusts, allowed by legislation enacted in 2010, allow for a step-up in basis in community property trust assets at the death of the first spouse to die.
- This type of trust makes sense for couples who are in a low-risk environment.
- Community Property Trusts make it easier for clients to equalize ownership of their assets, so that both spouses can be more likely to fully utilize their separate death tax exemptions

Community Property Trusts

- Since each spouse is treated as owning an undivided one-half of all community property, the effect of the death of one spouse is for the decedent's one-half interest to pass by will and for the survivor's one-half interest to become his or her property outright.
- Because each spouse owns an undivided one-half interest in all community property, each half may be eligible for a discount in value for transfer tax purposes.
- Whatever is in a married couples Community Property Trust is community property, and whatever is not in the Trust is separate property.

Community Property Trusts

- Potential CP Trust Concerns:
  - In the event of a divorce, the default is not only that the trust is divided between the spouses, but each trust asset is split between them.
    - A Community Property Trusts may have the nature of post-marital agreement.
  - Creditors of a spouse can reach that spouse's interest in a Tennessee Community Property Trust, and creditors of both spouses can reach both spouse’s interests. So, there is little or no creditor protection, and spouses should be aware that other forms of ownership, such as tenancy by the entirety, may be more beneficial for that purpose.

Community Property Trusts

Requirements of a Tenn. Comm. Prop. Trust - (Tenn. Code Ann. 35-17-103):

- **(1)** Expressly declares that the trust is a Tennessee community property trust;
- **(2)** Has at least one (1) trustee who is a **qualified trustee** *whose powers include, or are limited to, maintaining records for the trust on an exclusive or a nonexclusive basis and preparing or arranging for the preparation of, on an exclusive or a nonexclusive basis, any income tax returns that must be filed by the trust*. Both spouses or either spouse may be a trustee;
- **(3)** Is signed by both spouses; and
- **(4)** Contains the following language in capital letters at the beginning of the trust:

Community Property Trusts

Requirements of a Tenn. Comm. Prop. Trust - (Tenn. Code Ann. 35-17-103):

- THE CONSEQUENCES OF THIS TRUST MAY BE VERY EXTENSIVE, INCLUDING, BUT NOT LIMITED TO, YOUR RIGHTS WITH YOUR SPOUSE BOTH DURING THE COURSE OF YOUR MARRIAGE AND AT THE TIME OF A DIVORCE. ACCORDINGLY, THIS AGREEMENT SHOULD ONLY BE SIGNED AFTER CAREFUL CONSIDERATION. IF YOU HAVE ANY QUESTIONS ABOUT THIS AGREEMENT, YOU SHOULD SEEK COMPETENT ADVICE.

Community Property Trusts

Requirements of a Tenn. Comm. Prop. Trust - (Tenn. Code Ann. 35-17-103):

- A **Qualified Trustee**:
  - Must be a Tennessee resident or a corporate trustee licensed under Tennessee law; and
  - Must have least some certain duties such as custody of assets, preparing tax returns or be materially administering the trust.

Tax Planning Wills

TN
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Tax Planning Wills

- Generally, we see this as funding a family trust to the greatest extent of the estate tax exemption ($13.99 million in 2025).
- The remaining assets fund a marital trust that qualifies for the marital deduction and provides that no tax is paid on the first spouse's death.
  - Generally, since the marital trust will be included in the surviving spouse's estate, the marital trust should be spent down while the family trust continues to grow free from estate tax.
- We add flexibility by using a Clayton QTIP Trust in which the assets all transfer to a qualifying marital trust with a tax professional making an election to fund a family trust. This added flexibility helps make the best decision at time of death rather than simply relying on a funding formula.
- Current benefit of the tax planning wills is the growth of the family trust.

Credit Shelter Trusts

- In 2026, a married couple can shelter $30 million free of federal estate taxes via each person's unified federal estate and gift tax credit.
- Allows for flexible beneficiary pool.
- The trust may be subject to an ascertainable standard.
- Allows for flexible distribution of principal and income during the lifetimes of the beneficiaries.

Marital QTIP Trust

– Marital/QTIP trust:
  - For the exclusive benefit of the surviving spouse.
  - Employed when value of the estate may exceed the exemption amount.
  - Excess estate funds Marital Trust, and that portion qualifies for a marital deduction for estate tax purposes.
  - Requirements: (1) the surviving spouse is entitled to all trust income for life, payable at least annually, (2) trust property cannot be distributed to anyone other than surviving spouse during their lifetime, (3) non-income producing property may be held in trust only if the surviving spouse has the power to convert the property to be income producing, and (4) fiduciary must elect to QTIP the trust assets on a timely filed federal estate tax return – Form 706.

Business Tax Changes

Business Tax Changes

- Bonus Depreciation- 100% expensing of qualified depreciable property for assets placed into service after January 19, 2025

- R&D expense deductions for expenditures after 2025

Excess Business Losses – 461(l)

- Individual taxpayers may only deduct $626k in net business losses each year ($313k if single)
- Under TCJA, excess business losses were disallowed and only used as a carryforward.
- Any disallowed losses are treated as NOLS and can carry forward and reduce taxable income under the NOL rules.
- Losses must first pass passive activity loss rules, and is indexed for inflation starting in 2026.
- Applies at the individual level and doesn’t apply to C corporations

Other Tax Changes

Other Tax Law Changes *(continued)*

- Repeals Inflation Reduction Act (IRA) green tax subsidies (EV and Residential Energy Credits)
- Tightened rules on certain credits
- Limit C Corp. charitable giving with a 1% floor

Questions?

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