Tax Provision Changes: How the OBBBA Impacts Individuals, Businesses and Estate Planning

August 25, 2025

The One Big Beautiful Bill Act (the OBBBA), Pub. L. No. 119-21, was enacted July 4, 2025. The OBBBA makes numerous changes to the United States Internal Revenue Code of 1986 (the Code).

Fulfilling a key campaign promise of the Trump Administration, the OBBBA extends, expands and makes permanent a number of key provisions of the Tax Cuts and Jobs Act of 2017 (the TCJA) that were otherwise set to "sunset" at the end of 2025. In addition, the OBBBA introduces several new presidential priority items, international reforms, and permanent extensions of tax incentives focused on individuals and small businesses.

The OBBBA makes significant changes to tax provisions impacting both US and non-US individuals, businesses and estate planning. Some of the key changes to these areas of interest are highlighted below.

I. Select Individual Income Tax Changes

A. **Top 37 percent Tax Rate Made Permanent.** The OBBBA makes permanent the 37 percent top marginal federal income tax rate for individuals, which was scheduled to revert to the pre-TCJA 39.6 percent tax rate on January 1, 2026. This change also made permanent the structure that determines which capital gain rate applies to taxpayers.

B. **Alternative Minimum Tax Increases Made Permanent.** The OBBBA makes permanent the TCJA-increased exemption amounts and exemption phase-out thresholds for the alternative minimum tax. The phaseout for higher-income taxpayers reverts to $1 million in 2026 and is indexed for inflation beginning in 2027. In addition, the rate of phase-out is accelerated.

C. **Increased Standard Deduction; Repeal of Personal Exemption Made Permanent.** The OBBBA permanently extends and enhances the increased standard deduction. For 2025, the standard deduction is $15,750 (married filing separately or single filers) and $31,500 (married filing jointly and surviving spouses). For 2026, the standard deduction will be $16,000 (married filing separately or single filers) and $32,000 (married filing jointly and surviving spouses) and inflation-adjusted thereafter. Taxpayers aged 65 and over get an additional $6,000 standard deduction through 2028. The personal exemption is permanently terminated.

D. **Individual Charitable Deduction.** The OBBBA makes permanent the 60 percent adjusted gross income (AGI) limitation for charitable contributions of cash (the pre-TCJA limit was 50 percent of AGI); however, for taxpayers who itemize deductions, contributions will be deductible only to the extent they exceed 0.5 percent of AGI. Taxpayers who are subject to an AGI ceiling can generally take carryforwards of amounts above the ceiling, along with carryforwards of the amount below the 0.5 percent floor. The amounts below the 0.5 percent floor may not be carried forward for taxpayers who are not above any ceiling. The OBBBA additionally imposes a cap on the value of allowable charitable deductions at 35 percent for taxpayers in the top 37 percent tax bracket. This effectively creates a 2 percent tax on otherwise-deductible charitable contributions for such taxpayers. Non-itemizers will now be entitled to an above-the-line charitable deduction of up to $1,000 (single taxpayer) and $2,000 (married filing jointly).

E. **SALT Deduction Cap.** The OBBBA raised the cap on the amount of personal state and local taxes (SALT) that individuals can deduct. The cap is increased from $10,000 to $40,000 beginning in 2025 and extending through 2029. However, the ability to benefit from the increased cap is phased out for taxpayers with modified AGI starting at $500,000 up to $600,000, where the increased cap is completely phased out. Both the $40,000 cap and the phase-out thresholds increase by 1 percent annually. The pass-through entity tax (PTET) "workaround" to the SALT cap was not impacted by the OBBBA and should be considered for eligible taxpayers in high-tax states that have the PTET workaround in place.

F. **Increased Itemized Deduction Limitations; Repeal of Miscellaneous Itemized Deductions Made Permanent.** The OBBBA establishes a new overall limitation on the tax benefit of itemized deductions, effectively capping the value of allowable itemized deductions at 35 percent beginning in 2026. High-net-worth individuals generally are in the 37 percent tax bracket. Limiting the benefit of itemized deductions to 35 percent in effect creates a 2 percent tax on itemized deductions for those individuals in the top income tax bracket. The OBBBA makes permanent the suspension of miscellaneous itemized deductions, including investment management and tax preparation fees.

G. **Trump Accounts.** The OBBBA introduces the "Trump Account" which is a new federal tax-deferred savings vehicle for children effective 12 months after the date of enactment. Children born between January 1, 2025 and December 31, 2028, who are US citizens and have a valid

Social Security number, will be eligible to receive a one-time $1,000 government contribution to their newly created Trump Account. Children born outside of these years will still be eligible Trump Account beneficiaries but will not receive the one-time $1,000 contribution. In addition to the one-time government contribution, individual taxpayers (including family members) may contribute to these accounts but such contributions are limited to $5,000 per year (indexed for inflation). Employers may also contribute up to $2,500 per year (indexed for inflation) to these accounts for the children of their employees, but such contributions count toward the annual cap. The annual cap does not apply to (a) contributions made by the federal government, (b) rollovers between Trump Accounts or (c) qualified contributions made by nonprofit organizations to a defined class of beneficiaries. Earnings in these accounts grow tax-deferred and contributions are made on an after-tax basis. Donors do not receive an income tax deduction for contributions. Accounts must be invested in low-cost mutual funds or exchange traded funds which track a US stock index. No distributions may be made prior to the beneficiary reaching age 18.

H. **529 Plan Enhancements.** The OBBBA increases the limitation on annual distributions from 529 Plans and expands the definition delineating qualifying expenses for 529 Plans. Beginning after December 31, 2025, up to $20,000 per year (increased from $10,000) may be distributed from 529 Plans for certain expenses related to a beneficiary's enrollment in or attendance at an elementary, secondary or religious school. The expanded list of eligible expenses includes tuition, curriculum and curricular materials, books, online educational materials, tutoring, educational classes outside the home, fees for standardized tests, advanced placement exams, college admission exams, dual enrollment fees and educational therapies for students with disabilities provided by licensed professionals. These changes apply to distributions made after the enactment date of the OBBBA.

II. Business Tax Provisions Affecting Individuals

A. **Qualified Business Income Tax Deduction.** The OBBBA permanently extends the 20 percent deduction for qualified business income available to noncorporate taxpayers, subject to certain income phase-in thresholds. Subject to certain limitations, the deduction generally is available with respect to business income (other than employee income or income from specified services) and certain passive income. Due to relaxed phase-in thresholds for specified services, trades or businesses and W-2 wages, more taxpayers may be eligible to benefit from the deduction. Additionally, taxpayers who have at least $1,000 of qualifying income from active trades or businesses are now entitled to a minimum deduction of $400, adjusted annually for inflation starting in 2027.

B. **Business Interest Deduction Limit.** The OBBBA restores the interest expense limitation to its initial, more favorable form and makes the restored limitation permanent. The calculation of Adjusted Taxable Income (ATI), upon which the limitation is applied, is computed by reference to earnings before income taxes without regard to deductions allowable for depreciation, amortization or depletion. As a result of this change, taxpayers may deduct a greater portion of interest paid or accrued on debt attributable to a trade or business. Additionally, the OBBBA makes two unfavorable changes for tax years beginning after December 31, 2025. It excludes subpart F income and "net CFC tested income" (as described below) and any associated section 78 gross-up, as well as a portion of certain associated deductions, from the determination of ATI, which will have the effect of reducing available interest deductions for a "US shareholder." A US shareholder is a US person (i.e. a US citizen, US resident, domestic partnership, domestic corporation, domestic estate or trust in which a US court can exercise primary supervision) that owns, directly or constructively, 10 percent or more of the stock of a foreign corporation by vote or value. The OBBBA also provides an ordering rule under which interest capitalization (other than as required with respect to certain produced property and certain straddles) occurs after application of the interest expense limitation.

C. **Excess Business Loss Limit.** The OBBBA makes permanent the excess business loss limitation applicable to noncorporate taxpayers. This provision caps the amount of available trade or business losses at $250,000 ($500,000 for joint filers), adjusted annually for inflation. Starting in 2026, the inflation adjustment resets from a baseline in 2017 to a baseline in 2024, which will impact the limitation amount. Additionally, any disallowed loss becomes a net operating loss available in future years.

III. Increase in Gift, Estate and GST Tax Exemptions Made Permanent.

Beginning in 2026, the federal estate, gift and GST tax exemptions are permanently increased to $15 million per taxpayer (or $30 million per married couple with portability), adjusted annually for inflation starting in 2027. The higher exemptions present renewed opportunities for generational wealth transfers and allow families to implement strategic, long-term plans without the pressure of a looming deadline.

IV. Expansion of Certain Tax-Favored Investment Provisions

A. **Qualified Opportunity Zone Program Expanded and Made Permanent**

The OBBBA indefinitely extends a modified version of the Qualified Opportunity Zone (QOZ) program, first introduced under the TCJA. The revised program presents a renewed opportunity to incentivize investment in economically distressed communities while deferring or eliminating capital gains.

Existing QOZ designations will remain in effect until December 31, 2028. Future QOZ tracts may be proposed by state governors every 10 years, subject to stricter eligibility criteria than provided under the TCJA. Approved tracts will retain their designations for 10-year terms. State governors will propose the next cycle of tracts on July 1, 2026, and after approval by the Department of the Treasury, the designations will become effective January 1, 2027. This timing means that there will be a period where both tracts designated under the TCJA and tracts designated under the OBBBA will be subject to the program.

Under the OBBBA, a new incentive structure becomes effective on January 1, 2027. Taxpayers may elect to defer recognition of qualifying capital gains if the gains are reinvested in a Qualified Opportunity Fund (QOF) within 180 days. The deferred gain becomes taxable upon the earlier to occur of (i) the sale or exchange of the QOF investment or (ii) the fifth anniversary of the investment. After holding the investment for five years, the reinvested gain immediately benefits from a 10 percent step-up in basis, effectively eliminating 10 percent of the deferred gain. Further, if the investment is held for 10 years, any post-investment appreciation permanently excluded from federal income tax upon sale or exchange.

In addition to the new incentive structure, the OBBBA introduces Qualified Rural Opportunity Funds (QROF), providing greater incentives for taxpayers to invest in and promote growth in rural areas. Under the program, after holding a qualifying investment for five years, the investment benefits from a 30 percent step-up in basis. Additionally, it will be easier for QROF investments to continue to qualify for the program. Unlike the traditional QOZ program, which requires that, for a property's continued compliance with the program, the property's basis must be improved by 100 percent over a 30-month period, under the OBBBA, the basis of a property in a QROF need only be improved by 50 percent over the prescribed period to maintain compliance.

B. **Qualified Small Business Stock Gain Exclusion Expanded**

The OBBBA significantly enhances the tax benefits of Code Section 1202(a) for investors in QSBS by increasing the amount of gain from the sale or exchange of QSBS that can be excluded from gross income. Most notably, for QSBS acquired after July 4, 2025, the per-issuer gain exclusion cap has been raised to the greater of $15 million (or $7.5 million for married taxpayers filing separately) or 10 times the taxpayer's basis in the stock, with the dollar cap indexed for inflation beginning in 2027 (rounded to the nearest $10,000). The legislation also shortens the minimum required holding period from more than five years to just three years for partial exclusions, introducing a tiered structure that permits a 50 percent exclusion after three years, 75 percent after four years, and the full 100 percent exclusion after five years. In addition, the gross assets test has been expanded from $50 million to $75 million, likewise subject to future inflation adjustments (rounded to the nearest $10,000).

These updates represent a meaningful step toward enhancing tax planning opportunities and increasing liquidity for clients holding closely held business interests. By introducing a tiered exclusion system, the law provides greater flexibility for taxpayers and their estate planning advisors to structure partial liquidity events prior to the traditional five-year holding period, while still preserving significant tax benefits. These enhancements could significantly increase the value of QSBS planning, particularly for venture-backed startups and early investors seeking more favorable tax outcomes on exit.

However, certain core requirements under Code Section 1202 remain unchanged: the stock must still be acquired at original issuance (not on the secondary market), the company must continue to be a domestic C corporation actively engaged in a qualified trade or business, and full 100 percent gain exclusion remains available only after a five-year holding period. Nonetheless, investors must be careful to track the nuances — especially the rule that permanently disqualifies a company from future inflation-adjusted cap increases once the $15 million per-issuer limit is met in a given year.

V. Provisions Impacting Not-For-Profit Organizations

A. **No Increase Excise Tax on Private Foundations.** The OBBBA did not increase the 1.39 percent excise tax on the net investment income of larger private foundations, as originally introduced by the House.

B. **Increased Excise Tax on Certain Endowments.** Beginning in 2026, the OBBBA significantly increases the excise tax on net investment income of private colleges and universities with large endowments, measured on a per student basis. Institutions holding income-producing assets exceeding $750,000 per student will be subject to a graduated tax: 4 percent for per-student assets between $750,000 and $2 million, and 8 percent for amounts exceeding $2 million. This is an increase from the current flat 1.4 percent rate. Importantly, the per-student calculation excludes international students, focusing the tax burden on US enrollment.

C. **New Tax Credit for Contributions to Scholarship Granting Organizations.** Beginning in 2027, the OBBBA establishes a federal nonrefundable tax credit for contributions to 501(c)(3) public charities designated as Scholarship Granting Organizations (SGOs). Historically, a state-level initiative, the new federal SGO credit allows taxpayers to claim up to $1,700 annually, with a five-year carryforward for unused credits. The credit is reduced if a similar state-level credit is taken for the same contribution.

VI. International Tax Changes

A. **Global Intangible Low-Taxed Income (GILTI) and Foreign-Derived Intangible Income (FDII).** The OBBBA makes several changes to the provisions governing the regimes formerly known as GILTI and FDII for taxable years beginning after December 31, 2025. The OBBBA renames GILTI as "net CFC tested income" (NCTI) and FDII as "foreign-derived deduction eligible income" (FDDEI). The OBBBA reduces the deduction for NCTI (to 40 percent from 50 percent) and FDDEI (to 33.34 percent from 37.5 percent) and increases (to 90 percent from 80 percent) the portion of foreign income taxes that a domestic corporation is deemed to have paid with respect to NCTI. The OBBBA also disallows 10 percent of the deemed paid foreign tax credits (FTCs) for distributions of previously taxed NCTI. These changes increase the effective tax rate for both NCTI and FDDEI to 14 percent from the current 13.125 percent.

B. **Other CFC-Related Changes.** The OBBBA made changes to other provisions relating to "controlled foreign corporations" (CFCs), notably, restoring a taxpayer-favorable rule that was repealed by the TCJA (section 958(b)(4)), and adding a new proposed section 951 Section 958(b)(4) limits "downward attribution" of stock for purposes of determining CFC status. The repeal of that rule by the TCJA significantly increased the number of foreign corporations treated as CFCs, particularly within foreign-parented groups. By restoring the rule limiting downward attribution, the OBBBA will materially reduce the number of foreign corporations treated as CFCs. Section 951B was added to address the types of ownership structures that initially prompted the repeal of section 958(b)(4) and has the effect, in a more narrowly tailored manner than the TCJA, of subjecting foreign subsidiaries within certain foreign-parented groups to the subpart F regime.

   The OBBBA also modifies the pro rata share rules under subpart F. Under prior law, a US shareholder includes its pro rata share of a CFC's subpart F income and NCTI only to the extent the shareholder holds stock of the foreign corporation on the last day of the year on which the foreign corporation was a CFC. Under the OBBBA, a US shareholder may have subpart F income or NCTI inclusions if the shareholder owns stock of a CFC on any day of the taxable year even if that shareholder does not hold stock in the CFC on the last day of the year. The OBBBA provides that a US shareholder's pro rata share of a CFC's subpart F and NCTI is the portion of such income that is attributable to (a) the stock of such corporation owned by the shareholder and (b) any period of the CFC year during which the shareholder owned the stock, the shareholder was a US shareholder of such corporation and such corporation was a CFC.

C. **BEAT Rate and Tax Credit Changes.** Under pre-2026 law, the BEAT rate for 2025 was 10 percent, and the BEAT rate had been scheduled to increase to 12.5 percent beginning in 2026. The OBBBA instead permanently sets the BEAT rate at 10.5 percent beginning in 2026. Prior law also would have narrowed the type of tax credits that are BEAT-favored beginning in 2026, but the OBBBA eliminated this, permanently retaining the pre-2025 BEAT calculation credit rules.

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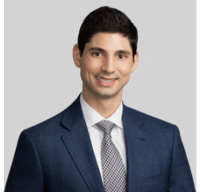

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