2025 – 2026 Planning Priorities

2025 Year-End Estate Planning Advisory

November 19, 2025

Click here for the 2025 Year-End Estate Planning Table of Contents

---

This year's planning season arrives amid sweeping tax and regulatory changes that affect income, wealth transfer, business, trust administration and reporting. The enactment of the One Big Beautiful Bill Act (OBBBA) reshaped the landscape for high-net-worth families, entrepreneurs and fiduciaries. At the same time, courts and regulators have materially altered the rules of the road for guidance, enforcement and compliance. The following summarizes what matters now and the practical steps to consider before year-end and into 2026.

What Changed: Highlights With Immediate Planning Impact

OBBBA permanently extended much of the 2017 Tax Cuts and Jobs Act (TCJA) and layered in new provisions with significant implications for individuals, trusts and closely held businesses.

- **Transfer tax exemptions**. Beginning in 2026, the estate, gift and generation-skipping transfer (GST) exemptions increase to $15 million per person, indexed thereafter, with no scheduled sunset. This makes federal transfer taxes a secondary concern for the vast majority of families, although state estate taxes remain relevant for many and income taxes remain relevant for all.
- **State and Local Tax (SALT) deduction**. For 2025–2029, the SALT deduction cap increases to $40,000, phasing out for incomes above $500,000. Entity-level pass-through entity (PTE) workarounds remain important complements but should be coordinated with the new cap and phase-out dynamics (as well as with your private wealth attorney depending on the complexity of the ownership structure).
- **Qualified Small Business Stock (QSBS) Expansion**. Starting in 2026, QSBS benefits expand: higher per-issuer exclusion caps ($15 million, inflation-indexed), a higher asset threshold for qualifying corporations ($75 million), and shorter holding period allowing for tiered use of the

exclusion. These enhancements renew interest in thoughtful share ownership, but taxpayers must navigate the per-issuer cap rules, the stacking/anti-abuse landscape and the permanent disqualification trigger if the annual cap is fully utilized.

- **Trusts and itemized deductions**. OBBBA brings an overall limitation on itemized deductions via a 2/37ths reduction for top income tax bracket taxpayers. An interpretive question is whether that limitation applies to deductions unique to estates and trusts (including distribution deductions and the fiduciary charitable deduction under section 642(c)[i]). Fiduciaries should expect IRS scrutiny and consider conservatively modeling the haircut for affected deductions absent further guidance.
- **Retirement and Required Minimum Distributions (RMDs)**. SECURE and SECURE 2.0 changes continue to govern RMDs, with later Required Beginning Dates (RBDs) and 10-year payout rules for most designated beneficiaries. Beneficiary designations and conduit/accumulation trust drafting remain critical to avoid unintended acceleration and loss of flexibility.
- **Enforcement and administration**. IRS enforcement funding shifts and a lighter Priority Guidance Plan, combined with the Supreme Court's rejection of the Chevron deference, mean more regulatory challenges and less predictability.
- **Beneficial ownership reporting**. The Financial Crimes Enforcement Network (FinCEN) has suspended enforcement of the Corporate Transparency Act's Beneficial Ownership Information (BOI) reporting for domestic companies; current activity is focused on foreign reporting companies while rules are re-examined. Open questions remain regarding previously filed reports and future deadlines; entities should maintain readiness and documentation pending updated rules.

Planning Priorities for Now

Refocus on income tax efficiency, basis and flexibility. With transfer tax exposures diminished, attention shifts to how, when and where income is recognized. Structures that create access, optionality and long-term control – while remaining nimble enough to recalibrate – are the ones to favor.

- **Basis management at death**. With larger exemptions, capturing a step-up (or step-down) is often more valuable than excluding appreciation from transfer tax. Consider upstream planning, substitution or sales between grantor and grantor trusts, and carefully tailored general powers of appointment to secure basis without triggering avoidable estate tax.

- **Trust distribution planning**. Trusts are taxed at compressed brackets; prudent distribution planning can shift income to lower-bracket beneficiaries, especially where the SALT cap is relevant.
- **SALT optimization**. Quantify benefits of the $40,000 cap and the phase-out at higher incomes. Coordinate with PTE elections and entity-level tax strategies. For multistate families, weigh residency, administration and trustee location to reduce state-source exposures. Consider non-grantor trusts for "stacking."
- **QSBS positioning**. Map ownership, verify issuer eligibility and maintain contemporaneous records. Where appropriate, consider share division strategies among family members and non-grantor trusts, taking care to respect section 643(f) and anti-abuse rules that collapse multiple trusts with substantially the same grantors and beneficiaries.

Reassess the structure and administration of trusts and entities in light of the evolving regulatory posture and recent case law.

- **Trust drafting for flexibility**. Include robust decanting tools, special and formula powers of appointment, substitution powers and trust protectors. Build in grantor trust flexibility when appropriate, but be mindful of potential adverse income tax effects of toggling.
- **Entity planning and estate inclusion risk**. Courts continue to scrutinize retained powers and "in conjunction with others" authority over distributions and liquidation in the years following the landmark case of *Powell v. Commissioner*, 148 T.C. 392 (2017), as previously described in more detail here. Separate investment and distribution powers, avoid unanimous voting requirements that place distribution and dissolution decisions within a transferor's control, and document actual non-tax purposes. For clients insisting on control, segment voting rights and appoint independent distribution managers for "tax sensitive" decisions.
- **Non-grantor trust usage**. Non-grantor trusts can produce tax benefits when properly structured and administered. Beware attribution, anti-abuse under section 199A regulations and section 643(f). Vary primary beneficiaries and substantive rights across trusts to respect separate taxpayer status.
- **Divorce resiliency**. Courts may treat heavily controlled, family-used trusts as marital in substance. Use independent fiduciaries, avoid donor-centric removal powers and "investment advisor" roles that dominate trust activity, respect formalities, and ensure any personal use is arm's-length and documented. Wealthy families should strongly encourage younger generation beneficiaries to enter into pre-/post-marital agreements to take family assets and trusts "off the table."

Conclusion

The 2025–2026 window offers unusually favorable conditions to streamline wealth plans for income tax efficiency, basis optimization and intergenerational governance. The right approach blends judicious use of trusts, carefully controlled entity structures, and precise drafting – anchored by a clear view of state-specific exposure and the evolving regulatory environment. We recommend targeted updates before year-end and a broader structural review in early 2026 to lock in benefits and reduce future friction. As always, the Katten Private Wealth practice stands ready and able to assist you with these matters at any time.

2025 Year-End Estate Planning Advisory Table of Contents:

- 2025–2026 Planning Priorities
- The One Big Beautiful Bill Act: Key Year-End Tax Changes for Private Wealth Clients
- Select Updates Impacting Family Business Owners
- Planning Considerations for the Rest of 2025 and Into 2026
- Select Federal Caselaw Updates
- State of the States
- Relevant International Updates

To download a PDF of the entire advisory, click here.

---

i Unless otherwise indicated, all section references are to the Internal Revenue Code of 1986, as amended (the "Code").

CONTACTS

For more information, contact your Katten attorney or any of these Private Wealth practitioners.

Joshua S. Rubenstein
+1.212.940.7150
joshua.rubenstein@katten.com

Ronni G. Davidowitz
+1.212.940.7197
ronni.davidowitz@katten.com

Abby Feinman
+1.310.788.4722
abby.feinman@katten.com

Charles Harris
+1.312.902.5213
charles.harris@katten.com

Tye J. Klooster
+1.312.902.5449
tye.klooster@katten.com

David M. Allen
+1.312.902.5260
david.allen@katten.com

Cynthia Reed Altchek
+1.212.940.6710
cynthia.altchek@katten.com

Diane B. Burks
+1.704.344.3153
diane.burks@katten.com

Jonathan C. Byer
+1.212.940.6532
jonathan.byer@katten.com

Bonnie Lynn Chmil
+1.212.940.6415
bonnie.chmil@katten.com

Adam M. Damerow
+1.312.902.5250
adam.damerow@katten.com

Michael L. Sherlock
+1.312.902.5643
msherlock@katten.com

Michael O. Hartz
+1.312.902.5279
michael.hartz@katten.com

Nicholas J. Heuer
+1.312.902.5549
nicholas.heuer@katten.com

Carol A. Johnston
+1.310.788.4505
carol.johnston@katten.com

Benjamin Lavin
+1.312.902.5670
ben.lavin@katten.com

Andrew L. McKay
+1.312.902.5315
andrew.mckay@katten.com

Parker F. Taylor
+1.212.940.8668
parker.taylor@katten.com

Kathryn von Matthiessen
+1.212.940.8517
kathryn.vonmatthiessen@katten.com

Mal L. Barasch
+1.212.940.8801
mal.barasch@katten.com

Lawrence B. Buttenwieser
+1.212.940.8560
lawrence.buttenwieser@katten.com

Alexandra Copell
+1.212.940.8588
alexandra.copell@katten.com

Marla G. Franzese
+1.212.940.8865
marla.franzese@katten.com

Robert E. Friedman
+1.212.940.8744
robert.friedman@katten.com

Gale R. Helfgott
+1.212.940.6487
gale.helfgott@katten.com

Stuart E. Grass
+1.312.902.5276
stuart.grass@katten.com

Milton J. Kain
+1.212.940.8750
milton.kain@katten.com

Rebecca H. Lomazow
+1.212.940.6497
rebecca.lomazow@katten.com

Kelli Chase Plotz
+1.312.902.5347
kelli.plotz@katten.com

Arnold I. Roth
+1.212.940.7040
arnold.roth@katten.com

Brianna Garland
+1.312.902.5242
brianna.garland@katten.com

Caitlyn E. Jensen
+1.312.902.5293
caitlyn.jensen@katten.com

Katie Keating
+1.312.902.5407
katie.keating@katten.com

Caitlin A. Kelly
+1.312.902.5419
caitlin.kelly@katten.com

Jonathan Kohl
+1.312.902.5619
jon.kohl@katten.com

Avi Pariser
+1.310.788.4514
avi.pariser@katten.com

Christina N. Romero
+1.212.940.6380
christina.romero@katten.com

Andrew B. Toporoff
+1.212.940.6356
andrew.toporoff@katten.com

Emily Tuten
+1.212.940.8617
emily.tuten@katten.com

Attorney advertising. Published as a source of information only. The material contained herein is not to be construed as legal advice or opinion.

©2026 Katten Muchin Rosenman LLP.

All rights reserved. Katten refers to Katten Muchin Rosenman LLP and the affiliated partnership as explained at katten.com/disclaimer.