

“One Big Beautiful Bill Act”

A. Tax Provisions for Individuals

1. Certain tax items made “permanent”.
 - a. Increased standard deduction made permanent.
 - (1) Single - \$15,750 (2025).
 - (2) Joint - \$31,500 (2025).
 - b. Personal exemptions permanently repealed.
 - c. Seven tax brackets (10%, 12%, 22%, 24%, 32%, 35% and 37%) made permanent.
 - d. Miscellaneous itemized deductions permanently repealed (with exception for some educator expenses).
 - e. Mortgage interest rules made permanent.
 - (1) \$750,000 limit on mortgage debt eligible for interest deduction.
 - (A) \$1 million limit applies on mortgages taken out prior to December 16, 2017.
 - (B) Applies to first or second home.
 - (2) No deductions for interest on home equity lines (i.e. a loan not used to buy, build or substantially improve your home).

2. Estates, gift and GST exemption.

a. Prior law.

- (1) Exemptions were \$13,990,000 in 2025.
- (2) Supposed to reduce to \$5,000,000 (indexed for inflation) starting in 2026.

b. New law.

- (1) Exemptions will be \$15,000,000 in 2026.
- (2) Indexed for inflation for every year thereafter.
- (3) Portability still part of law. However, no portability for GST exemption.

3. Tip income.

a. Prior law.

- (1) No special treatment for tip income.
- (2) Tip income fully taxable as ordinary income.

b. New law.

- (1) Employees and self-employed individuals may deduct “qualified tips” from income.
- (2) Limitations.
 - (A) Qualified tips are voluntary cash or charged tips received from customers or through tip sharing.
 - (B) Must be received in occupations listed by IRS as those where tips are customarily and regularly received. On September 22, 2025, IRS published list of occupations that identify occupations that customarily and regularly receive tips.
 - (C) The tips must be reported on a W-2 or 1099.
 - (D) Maximum annual deduction is \$25,000.

- (a) Deduction available for itemizing and non-itemizing taxpayers.
 - (b) Deduction phase out for taxpayers with AGI over \$150,000 (\$300,000 for joint filers).
 - (E) If taxpayer married, must file jointly to claim deduction.
 - (3) Effective for 2025 through and including 2028.
4. Overtime pay.
- a. Prior law.
 - (1) No special treatment for overtime pay.
 - (2) Taxes as ordinary income.
 - b. New law.
 - (1) Employees who receive qualified overtime compensation may deduct the pay that exceeds their regular rate of pay (i.e. the “half” portion of “time and a half”).
 - (2) Limitations.
 - (A) Overtime must be separately reported on a W-2 or 1099.
 - (B) Maximum annual deduction is \$12,500 (\$25,000 for joint filers).
 - (a) Deduction available for itemizing and non-itemizing taxpayers.
 - (b) Deduction phases out for taxpayers with AGI over \$150,000 (\$300,000 for joint filers).
 - (C) If taxpayer married, must file joint return.
 - (3) Effective for 2025 through and including 2028.
 - (4) Social Security and Medicare taxes still apply to overtime pay.

5. Interest on car loan.

a. Prior law.

- (1) Interest on loan for personal use car not deductible.
- (2) Deduction had been completely eliminated starting in 1991.

b. New law.

- (1) Interest paid on a loan to purchase a “qualified vehicle” may be deductible.
- (2) Limitations.
 - (A) Vehicle must be purchased for personal use. Lease payments do not qualify.
 - (B) Qualified vehicle.
 - (a) Gross vehicle weight rating of less than 14,000 pounds.
 - (b) Final assembly must be in the United States.
 - (C) Vehicle must be new. Used vehicles do not qualify.
 - (D) Loan must originate after December 31, 2024.
 - (E) Maximum annual deduction is \$10,000.
 - (a) Deduction available for itemizing and non-itemizing taxpayers.
 - (b) Deduction phases out for taxpayers with AGI over \$100,000 (\$200,000 for joint filers).
 - (c) Must include VIN of vehicle on tax return for any year where deduction is claimed
- (3) Effective for 2025 through and including 2028.

6. Deduction for seniors.

a. Current law – no provision.

b. New law.

- (1) Individuals 65 or older may claim an additional \$6,000 deduction. Married couples can receive \$12,000 if each spouse qualifies.
 - (A) Deduction available for itemizing and non-itemizing taxpayers.
 - (B) Senior deduction is in addition to additional standard deduction (\$2,000) for taxpayers 65 and over. Thus, single taxpayer who qualifies may receive total deduction of \$23,750 ($15,750 + \$2,000 + \$6,000$) (2025).
- (2) Deduction phases out for taxpayers with AGI between \$75,000 - \$175,000 (\$150,000 - \$250,000 for joint filers).
- (3) If taxpayer married, must file jointly to claim deduction.
- (4) Effective for 2025 through and including 2028.

7. SALT deduction.

a. Prior law.

- (1) Deduction for state and local taxes limited to \$10,000 by the Tax Cuts and Jobs Act of 2017.
- (2) Prior to 2017, no limit on SALT deductions.

b. New law.

- (1) Cap raised to \$40,000 for 2025.
 - (A) For 2026, 2027, 2028 and 2029, cap will increase 1% per year.
 - (B) In 2030, cap will revert to \$10,000.
- (2) Cap phases down once AGI exceeds \$500,000.
 - (A) For 2026, 2027, 2028 and 2029, threshold will increase by 1% per year.
 - (B) Phase out is 30 cents for every dollar over the threshold. Thus, in 2025 taxpayers with AGI above \$600,000 will reach the floor.
 - (C) Phase out has a floor of \$10,000

- (3) Pass through entity tax still available.
 - (A) Is a workaround to the SALT limitation.
 - (B) Pass through entity pays the state tax that otherwise would be paid by the entity owners.
 - (a) Payment by entity is a deduction which limits amount of income passed through on k-1.
 - (b) Owners get a credit on their state income tax returns for portion of state tax paid by entity.
- (4) Raising the SALT cap will result in more taxpayers itemizing their deductions.
- (5) Trusts.
 - (A) Grantor trusts.
 - (a) Not a separate taxpayer.
 - (b) Therefore, subject to, and combined with, tax information of grantor.
 - (c) Not entitled to separate SALT deduction.
 - (B) Non-grantor trusts.
 - (a) Treated as separate taxpayers.
 - (b) Each trust can claim its own SALT deduction.
 - (i) Would be one reason not to combine or merge similar trusts.
 - (ii) Example: Similar trusts for children are created under both father's Will and mother's Will.
 - (c) Gifts to trusts could be made to be "incomplete" so no gift tax consequences, yet for income tax purposes, they are treated as separate taxpayers.
 - (d) IRS has ability to treat multiple trusts as a single entity if they have the same grantor and

beneficiaries and were created primarily for tax avoidance.

8. Wagering losses.

a. Prior law.

- (1) 100% of gambling losses can be deducted to the extent of gambling winnings.
- (2) Reporting.
 - (A) Report winnings as "Other Income" and report losses on Schedule A. Therefore, cannot claim gambling losses unless you itemize.
 - (B) Cannot just report a net figure as "Other Income".

b. New law.

- (1) Starting in 2026, gambling losses that can be used to offset gambling winnings limited to 90% of losses.
- (2) Losses still cannot exceed gambling winnings.
- (3) Gamblers who break even will owe taxes on phantom income. Example: Taxpayer has \$10,000 of gambling winnings and \$10,000 of gambling losses.
 - (a) First compute 90% of losses (\$9,000).
 - (b) Next, compare to winnings (\$10,000).
 - (c) Net income of \$1,000.
- (4) Application of statute unclear which limitation applies first, the 90% cap or the gambling winnings.
 - (A) Example: Taxpayer has \$8,000 of gambling winnings and \$12,000 of losses. Result if first trim losses and then compare to winnings.
 - (a) First, compute 90% of losses (\$10,800).
 - (b) Next, compare to winnings (\$8,000).

- (c) Net is zero income. 90% limitation on losses had no impact on net result.
 - (B) Same example as (A), except first limit losses to winnings.
 - (a) Countable losses would be \$8,000.
 - (b) Compute 90% of countable losses (\$7,200).
 - (c) Compare to winnings (\$8,000).
 - (d) Net income is \$800.
 - (5) Travel and lodging expenses count as part of gambling losses.
- 9. Trump accounts.
 - a. Prior law – no provision.
 - b. New law.
 - (1) Creates a new type of tax favored savings account for minors called a “Trump Account”.
 - (2) Criteria.
 - (A) Can be opened starting in 2026.
 - (B) Is for the benefit of a “qualifying child”.
 - (a) Must be a minor when account opened.
 - (b) Must be a US citizen.
 - (c) Parent claiming child as a dependent must have a US social security number.
 - (C) No distributions are allowed until the calendar year in which the child turns 18.
 - (3) Annual contributions limited to \$5,000 (adjusted annually for inflation).
 - (A) Anyone can contribute to a person’s Trump Account before the year in which the child turns 18.
 - (B) No contribution allowed prior to July 4, 2026.

- (C) Employers can also make contributions (up to \$2,500) to a Trump Account for the employee or the employee's dependent.
 - (a) Are not taxable to the employee.
 - (b) Count against \$5,000 limit.
- (D) Contributions must be made by December 31 of the contribution year.
- (4) For children born on or between January 1, 2025 and December 31, 2028, the Federal government will contribute \$1,000 to each child's Trump Account.
 - (A) If parent does not open a Trump Account for such a child, the government may open one for the child.
 - (B) Does not count against that year's \$5,000 limit.
- (5) Account must be invested in a diversified fund that tracks a US stock index.
- (6) Tax consequences.
 - (A) Contributions are not taxable to beneficiary.
 - (B) Contributions are gifts by the donor.
 - (C) Funds in Trump Account grow tax deferred.
 - (D) Once child turns 18, Trump Account treated in same manner as an IRA.
 - (a) Treatment of withdrawals.
 - (i) Withdrawals will be taxable to extent exceed basis.
 - (I) Since contributions by individuals are not tax deductible, get basis.
 - (II) Contributions by Federal government or an employers do not create basis.
 - (ii) Withdrawals allocated pro rata between basis and non-basis.

(I) IRS does not allow withdrawal to first be taken solely against basis.

(II) Example: If Trump Account has current balance of \$100,000 of which \$20,000 represents original contribution by parents, then 20% of any withdrawal will be non-taxable and 80% will be taxable.

(b) Withdrawals prior to age 59 ½ may also incur 10% penalty unless exception applies.

(i) Permanent disability.

(ii) Qualified higher education expenses of beneficiary or family member.

(iii) First time homebuyer (limited to \$10,000).

(iv) Unreimbursed medical expense in excess of 7.5% of AGI.

(v) Payment of health insurance if unemployed

(vi) Birth or adoption expense (limited to \$5,000).

(c) After turning 18, child can make additional contributions to Trump Account provided he has eligible compensation.

(7) Unanswered questions.

(A) Will Trump Accounts be disregarded in determining eligibility for needs based programs?

(B) Can Trump Accounts be rolled over into a traditional IRA?

10. Charitable contributions.

a. Prior law.

(1) Need to itemize in order to receive benefit of charitable deduction.

(2) Charitable deduction limited to 60% of AGI for cash gifts to public charities and 30% for appreciated non-cash assets.

b. New law.

- (1) Non-itemizers can claim charitable deduction for cash gifts to public charities (up to \$1,000 for single filers and \$2,000 for joint filers). In essence, an above-the-line deduction. Effective starting 2026.
- (2) 60% and 30% limit for cash and non-cash gifts to public charities retained.
- (3) Starting 2026, itemizers can only deduct charitable gifts to extent they exceed .5% of taxpayers AGI (i.e. there is now a floor that must exceed before any charitable contributions are deductible).
 - (A) Example: Assume AGI is \$700,000. Only allowed to deduct charitable contributions (assume itemizing) to extent they exceed \$2,000 (.5% x \$400,000).
 - (B) Ordering rules apply for application of the floor.
- (4) Carry forward.
 - (A) Charitable contributions disallowed by AGI limitations may be carried forward to each of the next five tax years.
 - (B) Applies to the portion of the contribution disallowed by the floor as well as contributions limited by the ceiling.
 - (C) Current contributions in the carry forward year are considered first before considering carry forward items.
- (5) Since charitable gifts in 2026 will be subject to both the .5% floor and the general 2% reduction in value of itemized deductions, taxpayers contemplating making charitable gifts may want to make them in 2025.

11. Limit on overall itemized deductions.

a. Prior law.

- (1) Prior to Tax Cuts and Jobs Act, there was a limit on itemized deductions.
 - (A) Referred to as the “3%/80%” rule or “Pease limitation”.

- (B) If taxpayers AGI exceeded the “applicable amount” (in 2017, \$261,500 for single filers and \$313,800 for joint filers, but subject to inflation adjustment), amount of itemized deductions otherwise allowable were reduced by lesser of :
 - (a) 3% of excess of AGI over the applicable amount; or
 - (b) 80% of otherwise allowable itemized deductions.
 - (2) Tax Cuts and Jobs Act eliminated this limitation.
- b. New law.
 - (1) Starting in 2026, itemized deductions will be reduced by 2/37 of the lesser of:
 - (A) The amount of the itemized deductions; or
 - (B) Taxable income in excess of the dollar amount when the 37% bracket rate begins (in 2025 37% bracket reached at \$626,350 for single filers and \$751,600 for joint filers).
 - (2) Effect is to reduce the benefit of itemized deductions to taxpayers in the 37% bracket by 2%.
 - (3) Example: Single taxpayer has gross income of \$1 million and paid property taxes of \$40,000 and made charitable contributions of \$175,000.
 - (A) SALT deduction limited to \$10,000 since AGI over \$600,000.
 - (B) Charitable deduction.
 - (a) Determine floor = .5% x \$1 million = \$5,000.
 - (b) Deduction = \$175,000 - \$5,000 = \$170,000.
 - (C) Itemized deductions.
 - (a) Unadjusted itemized deductions = \$10,000 + \$170,000 = \$180,000.
 - (b) Reduction by 2/37 of lesser of:
 - (i) Itemized deductions = \$180,000; or

- (ii) Taxable income in excess of 37% bracket amount.
 - (I) Taxable income = \$1 million - \$180,000 = \$820,000.
 - (II) 37% bracket amount = \$626,350 (2025 figure) .
 - (III) \$820,000 – \$626,350 = \$193,650.
 - (iii) $\frac{2}{37} \times \$180,000$ (this is the lesser figure) = \$9,730.
 - (c) Adjusted itemized deductions = \$180,000 - \$9,730 = \$170,270.
 - (D) Taxable income = \$1 million - \$170,270 = \$829,730 (in contrast to \$785,000 without all limitations).
 - (4) Calculation excludes the deduction for qualified business income under Section 199A.
12. Discharge of student loans.
- a. Discharge of student loans due to death or disability are permanently excluded from taxable income.
 - b. Exclusion was supposed to expire on December 31, 2025.
13. Medicaid rules.
- a. New law delays implementation of nursing home staffing rule issued during Biden administration.
 - (1) Rule would require nursing homes to have at least one RN on duty 24/7 and to have a total nurse staffing standard of 3.48 hours per resident per day.
 - (2) Implementation postponed until September 30, 2034.
 - b. Work requirements for Medicaid recipients ages 19-64 who do not meet an exception. Effective January 1, 2027.
 - c. \$1 million ceiling for home equity value to be eligible for Long Term Supports and Services Medicaid.

(1) New Jersey had a higher limit (\$1,097,000 in 2025) which will now have to be lowered to be in compliance.

(2) Home equity limitation does not apply if spouse residing in home.

14. Certain tax items that were in place have been repealed.

a. Credit for costs of improvements that improved energy efficiency of home. Repeal effective for improvements placed in service on or after January 1, 2026.

b. Credit for costs of installing clean energy upgrades to residential property. Repeal effective for upgrades placed in service on or after January 1, 2026.

c. Credit for purchase of personal and commercial clean vehicles. Repeal effective for purchases made on or after October 1, 2025.

B. Tax Provisions for Businesses

1. Qualified small business stock (Section 1202).

a. Gain on the sale of stock in certain closely held companies may be limited or excluded.

(1) 1202 applies to sales or redemptions of stock.

(2) Does not apply to sale of assets by corporation.

(3) Applies on a per issuer basis. If taxpayer owns stock in multiple qualified small businesses, he can receive multiple exclusions.

b. Criteria.

(1) Corporation must be a domestic C corporation. LLC electing to be taxed as a C corporation can qualify.

(2) Corporation must be a "qualified small business" on date stock issued to taxpayer.

(A) Gross asset test.

(a) Gross value of corporation cannot exceed certain amounts.

(i) For stock issued prior to July 5, 2025, limit is \$50 million.

- (ii) For stock issued on or after July 5, 2025, limit is \$75 million.
 - (b) In valuing corporation, must also take into account value of any corporation (parent) holding more than 50% of the stock of the issuing corporation and value of any subsidiary corporation owned by issuing corporation (provided issuing corporation owns more than 50% of subsidiary).
 - (c) To satisfy the gross asset test, corporation must not exceed limit at anytime prior to or immediately after the issuance of the stock.
 - (i) “Immediately after” reference means you take into account contribution just made by taxpayer.
 - (ii) Once limit is exceeded, no subsequent issuance of stock by corporation will qualify for 1202 treatment. Will not affect status of previously issued stock.
 - (iii) Example: Brian became a shareholder in 2023 by making a capital contribution. At the time capital contribution made, value of corporation was \$40 million. However, in 2019 (before Brian became a shareholder), value of corporation was \$55 million. Brian’s stock will not qualify under 1202.
- (B) Active business requirement.
- (a) Corporation must use at least 80% of its assets (by value) in a qualified trade or business.
 - (i) Certain trades and businesses are specifically deemed to not qualify.
 - (I) Professional services.
 - (II) Banking and insurance.
 - (III) Farming.
 - (IV) Operation of lodging or restaurant.

- (ii) Real estate: Ownership of, or dealing in, or renting of real property is not deemed a qualifying business.
 - (iii) Start up and R&D work will qualify so long as those activities are reasonably anticipated to lead to qualified activities.
 - (b) Qualifying business must be “actively conducted”. No definition.
 - (c) Corporation will not be treated as conducting an active trade or business if more than 10% of value of its assets, in excess of liabilities, consist of stock or securities in other corporations which are not subsidiaries (would include publicly traded stock).
 - (d) Corporation will not be treated as conducting an active trade or business if more than 10% of value of its assets consist of real property not used in the conduct of the trade or business.
- (3) Eligible holders of 1202 stock can be individuals, trusts, and pass through entities (estate can also be an eligible shareholder, but it would have received a stepped up basis so likely that any gain is limited).
- (4) Seller of stock must have acquired the stock directly from the corporation as original issuance.
- (A) Stock is issued to taxpayer in exchange for contribution of money or property or for performance of services.
 - (B) Holder of stock can also have received stock as a gift or inheritance provided stock qualified in hands of person from whom received.
 - (C) If current holder of stock purchased stock from original shareholder, stock will not qualify since stock in his hands was not originally issued to him. Example: Jaxson starts up corporation. Shares qualify under 1202. Subsequently, Jaxson sells his shares to Cam. Sale by Jaxson may qualify for 1202 treatment. However, shares do not qualify for 1202 in Cam’s hands.

- (D) If S corporation revokes S election and becomes a C corporation, shares owned by shareholders will not qualify for 1202 since corporation was not a C corporation when shareholders received their shares. To qualify, shareholders would have to make post-S revocation contributions and receive additional stock.
 - (E) Stock can be voting or non-voting and can be common or preferred. "Phantom stock" does not qualify.
- (5) Holding period.
- (A) If stock issued prior to July 5, 2025, taxpayer must hold stock for more than five years to qualify for 1202.
 - (B) If stock issued on or after July 5, 2025, taxpayer must hold stock for only three years to qualify for some exclusion of gain.
 - (C) If taxpayer received the stock as part of compensation and stock is restricted, holding period will not start until stock either becomes unrestricted or 83(b) election made.
 - (D) If stock received as gift or inheritance, tacking of holding period from original owner is allowed.
- c. Amount of gain eligible for exclusion.
- (1) First, determine amount of potential gain on sale of stock.
- (A) Normally, basis of stock is the amount of cash contributed plus basis of property contributed.
 - (B) Note: If taxpayer originally contributed appreciated property in exchange for the stock, the built in gain is not eligible for 1202 exclusion.
 - (a) For purposes of calculating 1202 potential gain, the fmv (and not the basis) of property originally contributed is used to determine the basis of the stock.
 - (b) Example: Malik contributes property to corporation worth \$1 million which has a basis of \$100,000. Malik subsequently sells his stock for \$5 million. For typical tax purposes, gain is \$4.9 million

(\$5 million - \$100,000). For 1202 purposes, gain is \$4 million (\$5 million - \$1 million). Therefore, of the total taxable gain of \$4.9 million, \$900,000 not eligible for 1202 treatment.

(2) After 1202 gain determined, determine amount of 1202 exclusion.

(A) 1202 exclusion is greater of two amounts:

(a) Lifetime cap.

(i) \$10 million for stock issued prior to July 5, 2025 or \$15 million for stock issued on or after July 5, 2025.

(ii) Cap is reduced by use of 1202 in prior years for sales of stock in same corporation.

(iii) The cap is per issuer. Therefore, if taxpayer has invested in two different corporations, each investment has its own cap.

(iv) Each shareholder has a lifetime cap.

(I) If shareholder gifts shares to a family member or a non-grantor trust, each shareholder will have its own lifetime cap.

(II) To qualify, second shareholder must be a separate taxpayer for Federal income tax purposes.

(III) Gift does not have to be a completed gift for gift tax purposes.

(IV) Transferee cannot be spouse.

(V) Example: Dexter has used his lifetime cap. Dexter can gift shares to a non-grantor trust for his children. The trust will receive a lifetime cap.

(v) Cap is adjusted for inflation starting in 2027.

- (b) 10x limit.
 - (i) Ten times the basis of the stock disposed of by the taxpayer.
 - (ii) Calculation made annually based on basis of stock being sold. Not affected by prior exclusion claimed in earlier years.
 - (iii) Basis of stock equals the amount of cash and the fmV of property contributed to the corporation.
 - (iv) If taxpayer received blocks of stock at different times, he could have different 1202 basis.
 - (v) Making additional capital contributions, without receiving additional stock, does not increase 1202 basis.
- (B) For any given year, apply greater of lifetime cap or 10x basis limit.
- (C) Two limits are not stackable in a single year. Once lifetime cap is fully used, taxpayer may still qualify for exclusion if he has basis in remaining shares.
- (3) Final step is to apply percentage exclusion to amount of excluded gain. Percent of gain eligible for 1202 treatment depends on when stock was issued.
 - (A) 50% exclusion if issued after August 10, 1993 and before February 18, 2009.
 - (B) 75% exclusion if issued after February 17, 2009 and before September 28, 2010.
 - (C) 100% exclusion if issued after September 28, 2010 and before July 5, 2025.
 - (D) If stock issued on or after July 5, 2025, there is a tiered exclusion based on holding period.
 - (a) If held between 3 and 4 years, then 50% of gain can be excluded.

- (b) If held between 4 and 5 years, then 75% of gain can be excluded.
 - (E) If held 5 years or later, then 100% of gain can be excluded.
- d. Tax rates.
 - (1) Portion of 1202 gain not eligible for gain exclusion (due to 50% or 75% limitation) is taxed at 28%.
 - (2) Portion of gain from sale of stock not falling within 1202 is taxed at normal capital gains rates (15% or 20%).
 - (3) Excluded gains under 1202 are also not subject to 3.8% Medicare tax.
- e. Examples.
 - (1) Taxpayer invests \$500,000 of cash into corporation in 2013 and sells his stock for \$8 million in 2023.
 - (A) Total gain is \$7,500,000 (\$8,000,000 - \$500,000).
 - (B) Exclusion cap is greater of \$10,000,000 or \$5,000,000 (ten times basis). Exclusion cap is \$10,000,000.
 - (C) 100% exclusion percentage applies to stock issued after September 28, 2010 and before July 5, 2025.
 - (D) Entire gain is excluded.
 - (2) Taxpayer invests \$2 million of cash into corporation in 2008 and sells his stock for \$25 million in 2024 later.
 - (A) Total gain is \$23,000,000 (\$25,000,000 - \$2,000,000).
 - (B) Exclusion cap is greater of \$10,000,000 or \$20,000,000 (ten x \$2,000,000). Exclusion cap is \$20,000,000.
 - (C) 50% exclusion if issued after August 10, 1993 and before February 18, 2009.
 - (D) \$10 million of gain is excluded. \$10 million is taxed at 28% rate. \$3 million of gain taxed at regular capital gains rates.

- (3) Taxpayer in 2015 contributes to corporation hard assets having a value of \$2,000,000 and a basis of \$800,000 and sells his stock for \$20 million in 2024.
 - (A) Total gain is \$19,200,000 (\$20,000,000 - \$800,000). For 1202, basis of stock is \$2,000,000 (fmv of contributed assets). Thus, only \$18,000,000 of gain eligible to be considered for 1202.
 - (B) Exclusion cap is greater of \$10,000,000 or \$20,000,000 (ten x \$2,000,000 (as defined under 1202)). Exclusion cap is \$20,000,000.
 - (C) 100% exclusion percentage applies to stock issued after September 28, 2010 and before July 5, 2025.
 - (D) \$18,000,000 is excludable and \$1,200,000 is taxable at regular capital gains rates.
- f. New Jersey will conform to Section 1202 for all stock dispositions made on or after January 1, 2026. New York will also recognize Section 1202 treatment.
- g. Section 1045 rollover.
 - (1) Allows taxpayer to defer paying capital gains when selling 1202 stock by reinvesting the sales proceeds into new qualified small business stock within 60 days.
 - (2) Two instances, generally, where 1045 is useful.
 - (A) If taxpayer has not satisfied the holding period for 1202 exclusion. Holding period from old 1202 stock tacks on to new 1202 stock.
 - (B) If taxpayer's gain exceeds the amount excludible under 1202.
 - (a) Do not need to rollover entire sales proceeds from original sale.
 - (b) Rollover can consist of portion of original sale not eligible for 1202 exclusion, ie, portion in excess of lifetime cap.

- (c) New 1202 stock would be eligible for a new lifetime cap since corporation is a different issuer from original issuer.

h. Planning.

- (1) If gift stock to another individual or a non-grantor trust, donee will receive his/its own \$15 million cap.
 - (A) Example: Taxpayer gifts part of his shares to his child. Both taxpayer and child each have their own cap.
 - (B) Example: Taxpayer dies and bequeaths his stock to his three children. Each child has his or her own \$15 million cap.
- (2) Converting LLC to C corporation to take advantage of 1202.
 - (A) Built in gain at time of conversion not eligible for 1202 treatment.
 - (B) Minimum holding period of three years (new law) to obtain any benefits of Section 1202 (50% exclusion if hold for three years).
 - (C) Until stock sold, will be paying entity level taxes on any earnings since now a C corporation.
 - (D) If ultimate sale ends up being an asset sale, it does not qualify for 1202 and could be subject to double taxation. Query: would liquidation of taxpayer's stock interest following sale qualify for 1202?
- (3) Starting new business vs acquiring new business.
 - (A) If start a new business as a C corporation, can qualify for 1202 treatment. Must consider all of the other issues in deciding what structure to use for new business.
 - (B) If acquiring an existing business.
 - (a) If new business is a C corporation and taxpayer purchases the stock, will not qualify for 1202 treatment since the stock would not be original issuance in taxpayer's hands.

- (b) Consider having taxpayer form a C corporation and purchase the assets of the existing business or have corporation purchase the stock of the existing entity. Taxpayer will be owning shares in a newly formed corporation that may qualify for 1202.
- (4) Query: If spouses each own 1202 stock, will they each receive a \$15 million cap?
 - (A) Most likely a single cap for joint filers.
 - (B) Married filing separately receive one-half the standard exclusion.
 - (C) If spouses divorce and 1202 exclusion was previously used, each spouse will be “charged” for one-half of exemption used.
- (5) Selling stock in different tax years.
 - (A) The \$15 million cap is reduced by prior use of the exclusion for the same stock issuer.
 - (B) The ten times basis cap is only limited by how much basis remains after prior stock sales.
 - (C) Examples:
 - (a) Taxpayer has no basis for his stock. In 2031 total value of his stock is \$22.5 million so he sells 80% of his shares and realizes a gain of \$18 million. Of this, he can exclude \$15 million. In 2032 he sells additional shares and realizes a gain of \$4.5 million. None of this gain is excludable since he used up his \$15 million exclusion and he has no basis so 10x limit does not apply.
 - (b) Same facts as above, except taxpayer has basis for his stock of \$4 million (cash originally contributed). In 2031, taxpayer may exclude up to \$32 million of gain on these shares (greater of: \$15 million or $(80\% \times \$4 \text{ million} \times 10 = \$32 \text{ million})$). In 2032, he may exclude up to \$8 million of gain ($20\% \times \$4 \text{ million} \times 10$) based upon ten times basis rule since

he still has available basis. \$15 million cap reduced to zero by 2031 transaction.

- (c) Taxpayer receives Class A preferred shares which have no basis and Class B common shares which have a basis of \$5 million.
 - (i) Assume all of the stock is sold in year 6 for \$65 million. Total gain is \$60 million (\$65 million - \$5 million basis). Taxpayer may exclude the greater of \$15 million (lifetime cap) or \$50 million (10x basis). Taxpayer has taxable gain of \$10 million (\$60 million gain - \$50 million exclusion).
 - (ii) Alternatively, assume taxpayer sold the Class A shares in year 6 for \$15 million and the Class B shares in year 7 for \$50 million.
 - (I) In year 6, taxpayer has gain of \$15 million (\$15 million - \$0 basis). Taxpayer may exclude the greater of \$15 million (lifetime cap) or \$0 (10x basis). All of gain is excluded.
 - (II) In year 7, taxpayer has gain of \$45 million (\$50 million - \$5 million basis). Taxpayer may exclude the greater of \$0 (\$15 million cap less exclusion previously used of \$15 million) or \$50 million (10x basis). All of gain may be excluded.
- (6) Redemptions can qualify for 1202 treatment if the redemption qualifies as a sale or exchange under IRC 302.
- (7) Sales involving equity rollovers.
 - (A) In many sales of businesses, particularly those being purchased by private equity firms, buyer requires that part of consideration received by seller be an equity interest in buyer, ie, requires seller to retain "skin in the game".
 - (a) Transaction bifurcated between a sale portion and an equity receipt portion.

- (b) Many times the equity piece can be received tax deferred.
 - (i) If new entity is taxed as a partnership, IRC 721 can apply.
 - (ii) If new entity is taxed as a corporation, IRC 351 may apply (has more limitations than IRC 721).
 - (c) The equity portion is usually just tax deferred and carries a low basis. Will ultimately be subject to tax.
 - (B) If taxpayer's holding of interest in target corporation would otherwise qualify for 1202, taxpayer would prefer to have entire transaction structured as a taxable sale so entire consideration received can be excluded under 1202.
 - (a) Query: Should receipt of equity piece be structured as a taxable transaction rather than as tax deferred under 721 or 351?
 - (b) Structuring receipt of equity piece as a taxable transaction would allow equity piece to receive a basis increase.
 - (8) If a taxpayer sells his business and is required to roll over a portion of his equity into the buying entity, taxpayer will forfeit his right to 1202 treatment on the rollover portion if the rollover entity does not qualify under 1202, ie, it is an LLC and not a C corporation.
2. Qualified business income ("QBI") deduction (Section 199A).
- a. Prior law.
 - (1) Section 199A provides 20% deduction for certain non-corporate taxpayers with respect to their qualified business income from partnerships, S corporations, and sole proprietorships.
 - (2) Deduction available whether or not you itemize.
 - (3) Was set to expire after December 31, 2025.

b. New law.

- (1) 20% deduction made permanent.
- (2) Income thresholds.
 - (A) QBI deduction starts to phase out once income reaches certain thresholds.
 - (B) Thresholds were increased by new law starting in 2026.
 - (a) 2025.
 - (i) Single filers = \$197,300 – \$247,300.
 - (ii) Joint filers = \$394,600 - \$494,600.
 - (b) 2026.
 - (i) For 2026, thresholds will be adjusted for inflation.
 - (ii) Also, spread between beginning and end of phase out range will increase from \$50,000 to \$75,000 (single) and from \$100,000 to \$150,000 (joint). Assuming zero inflation, upper limits in 2026 would be \$272,300 (single) and \$544,600 (joint).
 - (iii) Increasing the spread means more taxpayers will qualify for at least a partial QBI deduction.
 - (C) Impact of thresholds.
 - (a) If AGI below threshold, QBI is fully deductible.
 - (b) If AGI is within phase out range, a partial QBI deduction is allowed.
 - (c) If AGI exceeds phase out range:
 - (i) No QBI deduction allowed if taxpayer is part of a Specified Service Trade or Business (“SSTB”).

- (ii) For non-SSTB, deductibility depends on wages paid and basis of qualified property.
- (3) Minimum QBI deduction.
 - (A) Taxpayer with a minimum of \$1,000 of total QBI will be entitled to a minimum QBI deduction of \$400.
 - (B) Effective 2026.
- 3. Bonus depreciation (IRC. Section 168(k)).
 - a. Prior law.
 - (1) Allows businesses to deduct a portion, or all, of cost of certain assets in the first year they are placed in service.
 - (2) Bonus depreciation scheduled to be 40% in 2025, 20% in 2026 and eliminated entirely in 2027.
 - b. New law.
 - (1) Makes 100% bonus depreciation permanent.
 - (2) No annual or income limits.
 - (3) Applies to qualified property acquired after January 19, 2025. If a property was acquired after this date, but was subject to a binding written contract before this date, property will not be deemed to have been acquired after January 19, 2025.
 - (4) Applies to most tangible property with a recovery period of 20 years or less, computer software, and certain improvements to non-residential real estate.
 - (5) Applies to new and used qualifying property.
 - (6) Bonus depreciation can be used to create a loss.
 - (7) Bonus depreciation reported on Form 4562 – “Depreciation and Amortization”.
 - (8) Bonus depreciation subject to recapture when asset sold.

4. Section 179 expensing.

a. Prior law.

- (1) Allows businesses to deduct the full purchase price of qualifying property in year purchased rather than depreciating it over time.
 - (A) Qualifying property.
 - (a) Certain tangible personal property ie machinery, equipment, furniture.
 - (b) Off the shelf software.
 - (c) Certain improvements to non-residential property.
 - (B) Can elect to deduct only part of cost of qualifying property and depreciate balance.
- (2) Maximum deduction was \$1.25 million.
- (3) Phaseout of deduction started once total purchases during year of Section 179 property exceed \$3.13 million, with deduction fully eliminated once purchases exceed \$4.38 million. Example: Business purchases \$4.13 million of qualifying property, which is \$1 million over the threshold amount. A allowable. Section 179 deduction reduced to \$250,000 (\$1,250,000 - \$1,000,000).

b. New law.

- (1) Maximum deduction increased to \$2.5 million (adjusted for inflation on annual basis).
- (2) Phaseout begins at \$4 million of purchases, within full phase-out at \$6.5 million.
- (3) Bonus depreciation cannot be claimed on any expense deducted under Section 179. However, bonus depreciation can be claimed for any remaining qualifying costs once the Section 179 limit is reached.
 - (A) Example: Business purchases \$3 million of qualifying property, which is \$500,000 over threshold amount. Eligible Section 179 deduction would be \$2.5 million. Business could apply bonus depreciation to the \$500,000 balance.

- (B) While there is overlap between types of purchases that will qualify for both Section 179 and bonus depreciation, Section 179 applicable to a broader array of purchases than bonus depreciation.
 - (C) Section 179 can be applied on an asset by asset basis whereas bonus depreciation needs to be applied to all assets within an asset class life.
 - (D) Section 179 expensing cannot be used to create a loss, whereas bonus depreciation can create an NOL.
 - (4) New law applies to property placed in service after December 31, 2024.
5. Qualified production property (IRC Section 168(n)).
- a. Prior law.
 - (1) Manufacturing buildings were generally depreciable over 39 years.
 - b. New law.
 - (1) Allows for 100% expensing of certain non-residential real property used in a qualified production activity within the U.S.
 - (2) Criteria to qualify.
 - (A) Must be non-residential property located in U.S. or any U.S. possession.
 - (B) Must be new construction (limited exception applies). Construction must begin after January 19, 2025 and before January 1, 2029 and must be placed in service by January 1, 2031.
 - (C) Original use of property must begin with taxpayer.
 - (D) Property must be an integral part of a qualified production activity.
 - (a) This is manufacturing, producing, or refining of tangible personal property.

- (i) Includes facilities related to the creation, assembly, or processing of tangible personal property.
 - (ii) Must be a “substantial transformation” of the product.
 - (b) Qualified production property does not include any portion of the building used for offices, administrative, research, or parking.
 - (3) Landlord cannot qualify via activities of his tenant, ie, tenant’s use does not count towards the requirement that the taxpayer engage in a qualified production activity. Query: what is treatment if taxpayer uses a separate entity to own the real estate from the entity that operates the business?
 - (4) Recapture rule: If the property ceases to be used in a qualified production activity within 10 years of having been placed in service, taxpayer must recapture the benefit taken.
6. Employer paid moving expenses.
- a. Old law.
 - (1) Tax Cuts and Jobs Act of 2017 eliminated the tax free, employer paid moving expense benefit for employees (except members of active duty military and intelligence personnel).
 - (2) Was set to expire after December 31, 2025.
 - b. New law.
 - (1) Permanently eliminates the tax free exclusion to employees.
 - (2) If paid by employer, but report these amounts as taxable wages. Employer can deduct as compensation.
7. Business interest expense (Section 163(j)).
- a. Old law.
 - (1) Limitation applied to businesses with gross receipts in excess of \$25 million.
 - (2) Up until 2018, no limit on deductibility of business interest.

- (3) Starting in 2018, under the first Trump Tax Act, the deduction was limited to 30% of adjusted taxable income (“ATI”) plus business interest income.
 - (4) Prior to 2022, ATI was similar to EBITDA (earnings before interest, taxes, depreciation, and amortization).
 - (5) Starting in 2022, in determining ATI, depreciation and amortization stopped being added back.
 - (A) Thus, ATI became more of a net figure since it was calculated after considering depreciation and amortization.
 - (B) Effect was to lower the deduction limit and reduce the amount of interest that was deductible.
 - (C) Example: In 2021, company has \$1,000 of earnings and \$100 of depreciation. ATI is \$1,000 (i.e. earnings before depreciation). Deductibility of interest limited to \$300 (30% of \$1,000).
 - (D) Example: Same facts, but year is 2022. ATI is \$900 (earnings take into account depreciation). Deductibility of interest limited to \$270 (30% of \$900).
 - (6) Any interest not deductible in current year was able to be carried forward.
- b. New law.
- (1) Effective for tax years starting after December 31, 2024, limitation now based on 30% of EBITDA. This raises the ATI base.
 - (2) Effective for tax years starting after December 31, 2025, certain changes made to determining EBITDA. Foreign income items removed from ATI.
 - (3) Threshold for application of 163(j) raised to gross receipts in excess of \$31 million (2025).