

OBBBA Year-End Tax Planning Opportunities and
Considerations

Allegheny Tax Society

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Introduction



Michael J. Koontz, Jr.

Michael joined Sisterson in 2018 and is a director in the firm's Tax Practice, where he provides strategic tax planning, advisory, and compliance services to businesses, family offices, and high-net-worth individuals. His practice spans domestic and international tax matters, business structuring, and transaction planning, with a focus on helping clients navigate and plan through an evolving tax landscape. Michael is also a member of the firm's Technology team, which focuses on tax compliance and planning for emerging growth and technology companies.

Michael lives with his wife and two children in Murrysville, PA.

Education

B.S in Accounting with a Minor in Personal Financial Planning, Saint Vincent College

Masters in Taxation, University of Denver,
Sturm College of Law

One Big Beautiful Bill Act (OB3)

- On May 22, 2025, the House passed H.R. 1, One Big Beautiful Bill Act (“the House version”). On June 28, 2025, the Senate offered up its version (“the Senate version”). On July 3, 2025, the House passed the Senate version.
- Finally, on July 4, 2025, President Donald J. Trump signed the One Big Beautiful Bill Act into law, referred to herein as “OB3.”
- From a tax perspective, OB3 places a high priority on the President’s tax agenda and campaign promises, permanently extending the Tax Cuts and Jobs Act, while adding additional provisions that align with Mr. Trump’s campaign promises.
- The tax bill is largely considered to be a Tax Cuts and Jobs Act extension, although there are many tax planning opportunities available as a result of the new bill

SALT Planning

- The OBBBA temporarily quadruples the SALT deduction limit
- From 2025 – 2029, itemizers can deduct up to \$40,000 (\$20,000 MFS), increasing by 1% each year (\$40,400 in 2026, etc.)
- The deduction phases out by 30% of the amount your Modified Adjusted Gross Income exceeds \$500,000 (\$250,000 MFS)
- Once MAGI exceeds \$600,000, the full \$10,000 Cap applies
- This steep drop-off can substantially increase a taxpayer's effective tax rate within the phasedown range, providing a great area for tax planning

SALT Planning

- A single taxpayer, Joe Nicola, has \$500,000 of MAGI. His deductions include \$43,000 of state and local taxes, \$15,000 of mortgage interest, and \$15,000 of deductible charitable contributions.
- Because Joe's AGI is at the bottom of the new SALT deduction phasedown range, every dollar of income that he receives reduces his SALT deduction by 30%. Thus, each dollar he earns adds \$1.30 to his taxable income.
- With his taxable income putting him in the 35% tax bracket, his effective tax rate on income earned within the phaseout range is $1.3 \times 35\% = 45.5\%$.
- For married taxpayers with a MAGI of \$500,000, assuming they itemize and have sufficient SALT to claim the max deduction, their effective tax rate on income earned within the phaseout range is $1.3 \times 32\%$, or 41.6%
- Keep in mind that AMT could make this planning moot, and it's important to run two separate calculations to ensure AMT does not apply



SALT Planning

- As illustrated by the previous examples, planning for those taxpayers with sufficient SALT deduction in the phasedown range is extremely important
- Consider MAGI Management items such as maximizing pre-tax retirement plans and deductions, maximizing contributions to HSAs, and avoiding Roth conversions or triggering other types of income
- Consider your taxable bond portfolio allocations and if an increased effective rate on taxable interest income would benefit from a transition to non-taxable bonds
- Avoid triggering income during these periods to the extent possible
- Consider bunching deductions to itemize every other year (to be discussed in more detail later)

SALT Planning

- PTET Elections

- Under a PTET election, the entity itself elects to pay state income tax at the entity level, rather than having the owners pay individually.
- These became popular after the SALT Cap came into play with the passing of the Tax Cuts and Jobs Act of 2017
- When a PTE pays state tax under a PTET, that payment is treated as a deductible business (entity-level) expense for federal purposes, thereby avoiding the SALT cap issue for the owners.
- Owners (partners/shareholders) receive either a credit on their individual state return for their pro rata share of the tax paid, or an income exclusion, depending on the state's approach.
- For federal purposes, because the tax is paid at the entity level, the deduction is taken by the business (not on owners' individual Schedule A), bypassing the SALT cap on the individual
- In the original House bill, it appeared that SSTBs were going to have the PTET opportunity substantially reduced or eliminated, but after successful lobbying, it did not make it into the final bill



SALT Planning

- Considerations for PTET elections
 - Does the taxpayer/s resident state provide a credit for PTET paid in another state?
 - Is the credit nonrefundable or carryforward only?
 - What is the impact of refunds on the personal return? Does the state have an ordering rule thereby requiring the PTET to be picked back up in income if there is an overpayment?
 - Are there any timing considerations with the PTET election? When can it be made? Is it irrevocable?

Charitable Contributions

OBBB limits the deduction for aggregate charitable contributions to the amount in excess of a new floor (.5% of adjusted gross income).



Effective January 1, 2026.

Charitable Contributions

In addition, OBBB permanently provides a nonitemizer charitable contribution deduction of up to \$2,000 for joint filers and \$1,000 for other filers.

Effective January 1, 2026.

Charitable Planning

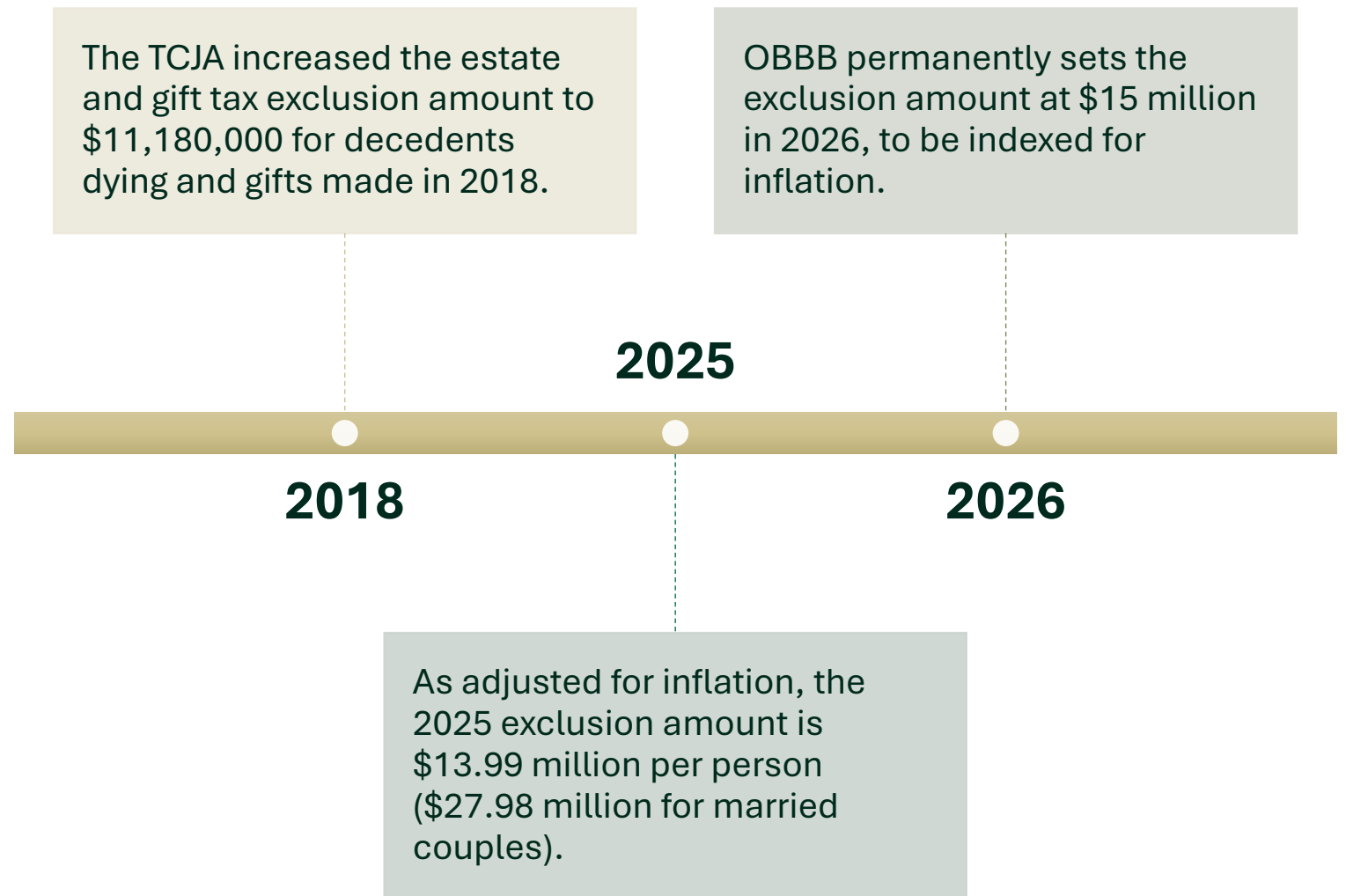
- Consider bunching or moving 2026 contributions into 2025 to avoid the charitable limitation for taxpayers adversely affected by these rules
- While most taxpayers will not be materially affected by these rules, for those with an exit on the horizon, this could result in substantial tax savings (See Example 1)
- Donate using a DAF in 2025 to secure the deduction now, while disbursing the funds to charities over future years, thereby avoiding the charitable limit being applied on an annual basis (see Example 2)
- It is worth noting that it is possible any charitable carryforward generated due to an AGI limitation before 2026 would not be subject to the new charitable floor, although guidance on this issue is necessary, as it is not clear
- Also consider giving via a Qualified Charitable Distribution to circumvent the charitable floor

Charitable Contribution Limitation – Example 1

	<u>2025</u>	<u>2025</u>	<u>2026</u>
AGI	7,100,000.00	7,100,000.00	15,000,000.00
Charitable Donation	400,000.00	200,000.00	200,000.00
Charitable Floor (.005)	N/A	N/A	75,000.00
Itemized Deduction Limitation (2/37)	N/A	N/A	6,756.76
Tax Benefit of Donation	148,000.00	74,000.00	43,750.00
Bunched Donation Tax Savings	148,000.00		
Spread Donation Tax Savings	<u>117,750.00</u>		
Bunched Savings Advantage	<u><u>30,250.00</u></u>		

*Assumes DAF Contribution to permit draw down in 2025 and 2026

Estate and Gift Taxes



Home Mortgage Interest

The TCJA limited the home mortgage interest deduction to the first \$750,000 of debt.

OBBB makes this permanent and treats certain mortgage insurance premiums as mortgage interest.

For UHNW Individuals, consider a “tax-aware” borrowing structure to circumvent the \$750,000 limitation



Opportunity Zones

- Qualified Opportunity Zones were added as a part of the TCJA to spur economic development into certain “low-income” communities, but the provisions were temporary
- Taxpayers could elect to defer capital gain into Qualified Opportunity Funds, which allowed them to obtain certain benefits, like basis step-ups, tax-deferral, and eventually, a step-up in basis to FMV provided the investment was held past a 10-year holding period
- The OB3 Act makes the QOZ provisions permanent, with some changes to the rules

Opportunity Zones – OB3 Changes

- 5 Year Basis Step Up - Taxpayers investing capital gains into a qualified opportunity fund (QOF) on or after Jan. 1, 2027, will be able to take a 10% basis step up for investments held at least five years. Gains deferred will now be recognized on the fifth anniversary of the investment date.
- OB3 creates a new category of fund for rural areas, which creates some enhanced benefits for QROFs
 - 30% basis step-up for investments held at least five years
 - Gains deferred recognized on the fifth anniversary of investment date (same as standard)
 - Substantial improvement requirement for rural OZs is 50% vs 100%
- There is now a 10-year Rolling OZ Designation Period – meaning that zones will now change every 10 years
- The OB3 adds a 30-year investment hold limit, meaning on the 30th anniversary date the investment basis is stepped up to FMV and any increase in value after that date would be subject to tax
- Note, it is likely worth waiting until 1/1/27 for clients to make OZ investments to the extent they can, as there is a benefit blackout period where the standard/current rules apply until 12/31/26. The 5-year basis step-up and 5-year gain deferral will only apply for investments made on or after 1/1/27.



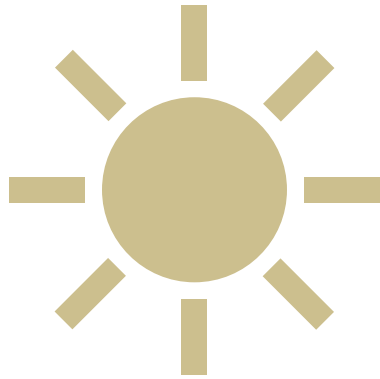
Section 1202

- Section 1202 currently allows an exclusion of 100% of the gain for the sale of small business stock held for more than 5 years if certain requirements are met.
- OBBB alters some of the rules, permitting an exclusion of 50% of gain for small business stock held at least 3 years, 75% at least 4 years, and 100% at least 5 years. The stock must be acquired after the date of enactment to qualify.
- Small business asset basis limit increased to \$75 million from \$50 million for stock issued after date of enactment.
- Lifetime limit increased from \$10 million to \$15 million for stock acquired after the date of enactment.

Section 1202 – Planning Opportunities and Considerations

- Full Exclusion Tax Benefit - $\$15\text{M} \times 23.8\% = \3.57M
- Partial Exclusion – 3 Year Hold - $\$7.5\text{M} \times 23.8\% = \1.785M
 - Note that the excluded portion is taxed at 28%, not 23.8%, so net tax on the \$7.5M = \$2,100,000
 - Note this slightly reduces the benefit and is important to keep in mind, as it will result in \$315,000 more tax than if taxed at 23.8%
- Opportunities for Issuing New Shares and Planning? Entity Conversions?

Residential Clean Energy Credit

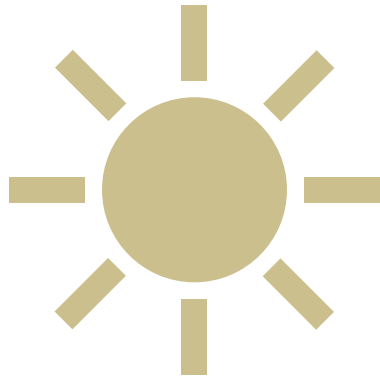


The Inflation Reduction Act extended (through 2034) and enhanced the Residential Clean Energy Credit, permitting a credit for solar electric, solar hot water, fuel cells, biomass fuel property, and geothermal heat pumps installed in homes.

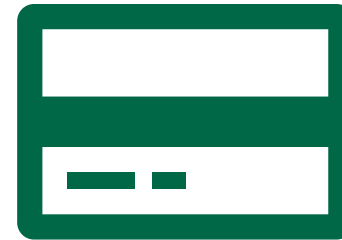


OBBB eliminates the credit for expenditures made after December 31, 2025. Note that the definition of “expenditure made” requires the property be installed before January 1, 2026.

Energy Efficient Home Improvement Credit



The Inflation Reduction Act extended (through 2032) and enhanced the Energy Efficient Home Improvement Credit, permitting a credit of up to \$1,200 annually for certain improvements, plus another \$2K for certain types of heat pumps.



OBBB eliminates the credit for property placed in service after December 31, 2025.

Clean Vehicle Credit



The Inflation Reduction Act extended (through 2032) and enhanced the Clean Vehicle Credit, permitting a credit for electric vehicles of up to \$7,500.



OBBB eliminates the credit for vehicles acquired after September 30, 2025, thus this provision has unfortunately expired.

Research Expenditures

OBBB permanently allows a full deduction of domestic R&D expenditures paid or incurred after December 31, 2024. These expenditures were previously required to be capitalized and amortized over 5 years, beginning in 2022.

Small business taxpayers are generally be permitted to apply this change retroactively to tax years beginning after December 31, 2021.



Research Expenditures

- A small business taxpayer is one with average annual gross receipts of \$31 million or less for 2025, as indexed for inflation (448(c)). Average is defined generally as the preceding three-year period.
- Taxpayers that capitalized R&D expenditures between 2022 and 2024 are permitted to elect to accelerate the remaining deductions for those expenditures over a one- or two-year period in 2025 or 2025/2026.
- Small business taxpayers may elect to deduct the unamortized expenditures retroactively in 2022, 2023 and 2024.
- Section 280C is corrected for tax years beginning after 2024, so the election to reduce the credit may make sense again, where we had previously avoided doing so under the premise that we could double dip

Research Expenditures - Planning

- Taxpayer friendly guidance arrived via Rev. Proc. 2025-28, clarifying some open items and concerns as the 10/15 deadline approached
- With Sec. 280C back in effect, we must once again reduce the R&D expenses deducted by the amount of the R&D credit received, including if retroactivity is claimed
- Generally, it appears most advantageous to claim the write offs in 2025 or 2025 and 2026
- Be cognizant of rate arbitrage for passthrough taxpayers
- Impact of interest claimed on historical refunds?
- Consider the impact to states. Non-conforming states? States with Static Conformity?
- If you claim the full write off in a single retroactive year, you must amend all tax years, you cannot pick and choose
- Keep in mind the statute of limitations for amending prior periods was not adjusted, thus taxpayers that filed early in 2021 may only have a few more months to claim retroactivity for 2021, vs until July 4, 2026
- Be mindful of EBL and NOL limitations when considering how to run the adjustments through



Bonus Depreciation

- Bonus Depreciation was 40% for 2025. The percentage was scheduled to drop to 20% in 2026.
- OB3 permits 100% bonus depreciation for property placed in service after January 19, 2025, and this is now permanent (i.e., no sunset).
- Be sure to consider *Stine* and *Lentine* – i.e. what is your in-service date?
- Be cognizant of the written binding contract rules
- Prior Regulations may be a good starting point for planning considerations

Bonus Depreciation

- To qualify for the 100% Bonus Depreciation Rate:
 - Acquired property: Must be purchased under a written binding contract executed on or after Jan. 20, 2025
 - New construction: It is treated as “acquired” when construction begins, which is typically defined by the 10% test (but not always). This means that the taxpayer must incur more than 10% of the total expected construction costs (excluding land, and preliminary activities such as planning, design, financing, exploration, or research) to establish the acquisition date
 - Pre-OBDD acquisitions: Property acquired before Jan. 20, 2025, or subject to a binding contract entered into before that date, is not eligible for the new 100% rate. Instead, bonus depreciation is limited under the pre-OBDD phase-down rates.

Bonus Depreciation

OBBB also creates a 100% deduction for certain commercial real property integral to qualified manufacturing, agriculture or chemical production.

Generally effective for property placed in service after enactment and before 2031, if construction begins after January 19, 2025 and before 2029.

Itemized Deductions

- Taxpayers in the top 37% bracket will experience a small haircut on the overall amount of their itemized deductions.
- The aggregate will be reduced by $\frac{2}{37}$ of the lesser of (1) the amount of their itemized deductions or (2) the amount by which taxable income falls within the 37% bracket.
- Tax benefit of I/D depends on tax bracket; max benefit = 35 cents on the dollar. If in 37% bracket, then there is a haircut.

Itemized Deduction Limitation Example

Using 2025 rates as an example, suppose the following:
 37% bracket for joint filers starts at 751,600

Tax Bracket	35%	37%	37%
Taxable Income	725,000	850,000	850,000
Amount in excess of \$751,600	-	98,400	98,400
2/37 A	-	5,319	5,319
Itemized Deductions	100,000	100,000	40,000
2/37 B	5,405	5,405	2,162
Result			
Itemized Deductions	100,000	100,000	40,000
Reduction (lesser of A or B)	-	(5,319)	(2,162)
Deduction	100,000	97,384	37,838

Itemized Deductions

- The interaction between all the itemized deductions is now more critical than ever, due to all the various limitations and changes. Bunching charitable deductions, SALT payments, etc. can provide great opportunities for planning

	Scenario 1		Scenario 2	
	2026	2027*	2026	2027
SALT Deduction	20,000	5,000	12,500	12,500
Charitable Donation	20,000	-	10,000	10,000
Mortgage Interest	20,000	18,000	20,000	18,000
Total Deductions	60,000	23,000	42,500	40,500
Total Deductions - Scenario 1	93,000			
Total Deductions - Scenario 2	83,000			
Increased Deduction from Bunching	<u>10,000</u>			

* Bunching permits us to claim an increased deduction, as we are able to bunch deductions in 2026, and claim the standard deduction in 2027

Alternative Minimum Tax

- The TCJA increased the exemption amounts, as well as the amounts at which the exemptions phase out. This had the effect of reducing the incidence of the individual AMT. These amounts were scheduled to revert to pre-TCJA levels at the end of 2025.
- OBBB permanently extends the higher exemption and phase-out amounts.
- However, the 2018 phase-out amounts (\$1 million for joint filers and \$500K for singles) are to be moved to 2026, exposing more wealthy individuals to the AMT. As a point of reference, the indexed amounts at which the exemptions began to phase out for 2025 were \$1,252,700 for joint filers and \$626,350 for others. These will reset to the 2018 levels in 2026.

Thank you!

Any Questions?

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