

FEDERAL TAX UPDATE

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1

2025 Federal Income Tax Brackets for Individuals

Taxable Income Exceeding		Ordinary Income	Adjusted Net Cap Gain* & Qualified Dividends	Medicare Surtax on Earned Income**	Medicare Surtax on Net Investment Income
Single	Married Filing Jointly				
\$0	\$0	10%	0%	2.9%	0%
\$11,925	\$23,850	12%			
\$48,350	\$96,700	22%			
\$48,475	\$96,950	24%			
\$103,350	\$206,700	24%	15%	3.8%	3.8%
\$197,300	<i>AGI over \$250,000</i>	32%			
<i>AGI over \$200,000</i>	\$394,600	32%	20%	3.8%	3.8%
\$250,525	\$501,050	35%			
\$533,400	\$600,050	35%	20%	3.8%	3.8%
\$626,350	\$751,600	37%			


2

2025 Federal Income Tax Brackets for Trusts & Estates

Taxable Income Exceeding	Ordinary Income	Adjusted Net Cap Gain* & Qualified Dividends	Medicare Surtax on Net Investment Income
\$0	10%	0%	0%
\$3,150	24%		
\$3,250		15%	
\$11,450	37%		
\$15,650		20%	3.8%
\$15,900			

3

Date of gift	Annual exclusion amount
2001	\$10,000
2002 – 2005	\$11,000
2006 – 2008	\$12,000
2009 – 2012	\$13,000
2013 – 2017	\$14,000
2018 – 2021	\$15,000
2022	\$16,000
2023	\$17,000
2024	\$18,000
2025	\$19,000




Federal Gift Tax Annual Exclusion Amount

4

Month	\$7520 Rate	Month	\$7520 Rate
January 2023	4.6%	January 2024	5.2%
February 2023	4.6%	February 2024	4.8%
March 2023	4.4%	March 2024	5.0%
April 2023	5.0%	April 2024	5.2%
May 2023	4.4%	May 2024	5.4%
June 2023	4.2%	June 2024	5.6%
July 2023	4.6%	July 2024	5.4%
August 2023	5.0%	August 2024	5.2%
September 2023	5.0%	September 2024	4.8%
October 2023	5.4%	October 2024	4.4%
November 2023	5.6%	November 2024	4.4%
December 2023	5.8%	December 2024	5.0%


Month	\$7520 Rate
January 2025	5.2%



Section 7520 Rates

5

Date of death	Basic exclusion amount	Date of death	Basic exclusion amount
2011	\$5,000,000	2018	\$11,180,000
2012	\$5,120,000	2019	\$11,400,000
2013	\$5,250,000	2020	\$11,580,000
2014	\$5,340,000	2021	\$11,700,000
2015	\$5,430,000	2022	\$12,060,000
2016	\$5,450,000	2023	\$12,920,000
2017	\$5,490,000	2024	\$13,610,000
		2025	\$13,990,000



Federal Wealth Transfer Tax Basic Exclusion Amount

6

Selected Sunsets at the End of 2025

- 37% top rate on ordinary income
- Increased standard deduction (\$14,600)
- Increased AMT exemptions and thresholds
- Exclusion for income from discharge of debt on principal residence
- \$10,000 cap on deduction for state and local taxes
- Limit on personal casualty losses
- 60% AGI limitation on cash donations to public charities
- Qualified business income deduction under §199A
- \$10 million (adjusted) “basic exclusion amount”

7



Back from the Dead in 2026

- 39.6% top rate on ordinary income
- Miscellaneous itemized deductions
- Overall limit on itemized deductions
- Personal and dependency exemptions
- Deduction for interest on home equity debt
- Deduction for moving expenses

8

Paying for an Extension


EXPIRING PROVISION	REVENUE EFFECT OF 10-YEAR EXTENSION
Reduced tax rates for top 6 brackets	\$2.2 trillion loss
Doubled standard deduction and limits on itemized deductions and exemptions	\$1.3 trillion gain
Increased AMT exemption amount	\$637 billion loss
Increased child tax credit	\$735 billion loss
Increased wealth transfer tax basic exclusion amount	\$83 billion loss

Source: Lautz & Fano, *The 2025 Tax Debate: The Big Picture for Individual Taxes in TCJA*, Bipartisan Policy Center (July 12, 2024)

9

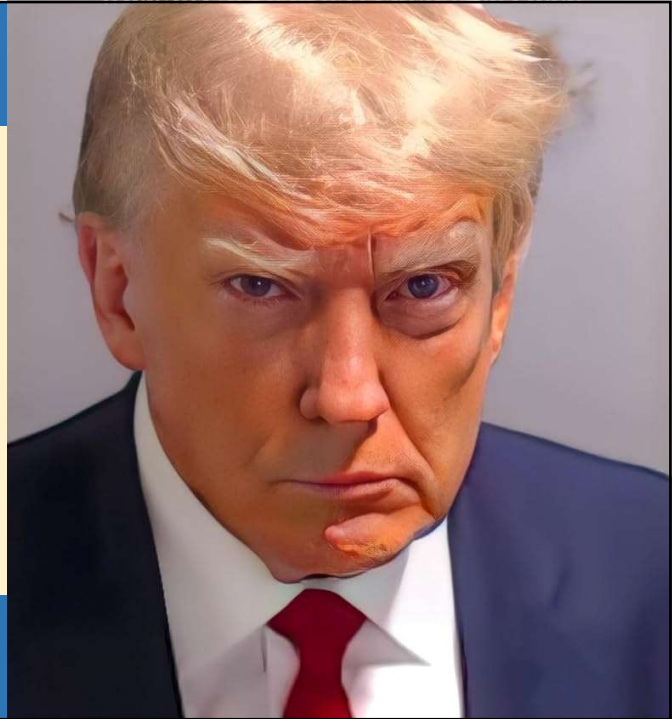
STOP THE ~~STEAL~~ SUNSET!

- Preserve 37% top income tax bracket
- Preserve \$10 million basic exclusion amount
- Preserve §199A deduction
- Preserve SALT deduction cap



10

- 15% corporate tax rate?
- Exclude tips from income?
- Exclude social security benefits from income?
- Impose universal tariff on all imports (10% base, up to 60% for imports from China)?



11

Does corporate-owned life insurance used to fund a redemption increase the estate tax value of stock?



Estate of Blount v. Commissioner
(11th Cir. 2005) → NO

- While the insurance is an asset, there is an offsetting liability to use the proceeds to redeem the stock

12

Does corporate-owned life insurance used to fund a redemption increase the estate tax value of stock?



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(11th Cir. 2005) → NO

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Estate of Connelly v. United States
(8th Cir. June 2, 2023) → YES

- A willing seller would not accept \$3.86 million for the stock when the company is about to get a \$3 million death benefit

13

Moore v. United States

Is the **Mandatory Repatriation Tax** (“MRT”) constitutional?



14

Moore v. United States

“Whether the Sixteenth Amendment authorizes Congress to tax unrealized sums without apportionment among the states”



15

Moore v. United States

“...the MRT *does* tax realized income – namely, income realized by the corporation, KisanKraft. The MRT attributes the income of the corporation to the shareholders, and then taxes the shareholders (including the Moores) on their share of that undistributed corporate income.

So the precise and narrow question that the Court addresses today is whether Congress may attribute an entity’s realized and undistributed income to the entity’s shareholders or partners, and then tax the shareholders or partners on their portions of that income.”



16

Moore v. United States

“...our analysis today does not address the distinct issue that would be raised by (i) an attempt by Congress to tax both the entity and the shareholders or partners on the entity’s undistributed income; (ii) taxes on holdings, wealth, or net worth; or (iii) taxes on appreciation.”



17

Moore v. United States

The realization requirement springs not from the Sixteenth Amendment but from *Eisner v. Macomber*, and *Helvering v. Bruun* neutered Macomber’s stance on realization.

“Any litigant seeking to sustain her case on the basis of *Macomber* would have to bring back from the dead its Court-created limit on Congress’s power.”



18

Moore v. United States

“The question on which we granted review is ‘[w]hether the Sixteenth Amendment authorizes Congress to tax unrealized sums without apportionment among the states.’ ... The answer is straightforward: No.”



19

Moore v. United States

“In *Eisner v. Macomber*, 252 U. S. 189 (1920), the Court explained that ‘the characteristic and distinguishing attribute of income,’ as the term is used in the Sixteenth Amendment, is that it is ‘*received or drawn* by the recipient (the taxpayer) for his separate use, benefit and disposal.’ *Id.*, at 207. Because the Moores never actually received any of their investment gains, those unrealized gains could not be taxed as ‘income’ under the Sixteenth Amendment.”



20

Loper Bright Enterprises v. Raimondo

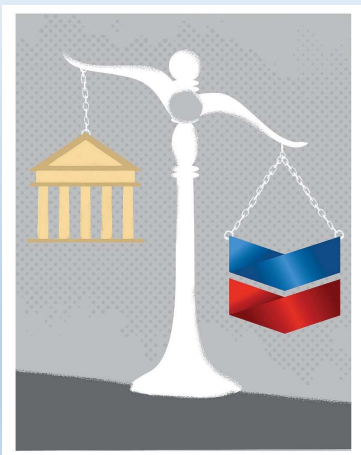


Chevron USA v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984)

A court may not second-guess or substitute its own, “better” interpretation of statute that is silent or ambiguous as to a particular matter as long as the agency’s interpretation is a reasonable one.

21

Loper Bright Enterprises v. Raimondo



“*Chevron* is overruled. Courts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority, as the APA requires. Careful attention to the judgment of the Executive Branch may help inform that inquiry.”

22

Loper Bright Enterprises v. Raimondo



“And when a particular statute delegates authority to an agency consistent with constitutional limits, courts must respect the delegation, while ensuring that the agency acts within it. But courts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous.”

23

Corner Post, Inc. v. Board of Governors of the Federal Reserve System

When does the statute of limitations for facial challenges to a federal agency’s rule start to run?

- When the agency publishes the final rule

Fourth, Fifth, Eighth, Ninth, Federal, D.C.

- When the plaintiff first becomes aggrieved by the rule

Sixth



24

Estate of Anenberg v. Commissioner
162 T.C. No. 9 (May 20)

McDougall v. Commissioner
163 T.C. No. 5 (September 17)

Does a terminating distribution of QTIP to the surviving spouse, followed by the spouse's installment sale of that property, trigger a deemed gift under §2519?



25

<p>Replaced life expectancy payout with 10-year payout for all BUT "<i>eligible designated beneficiaries</i>"</p> <ol style="list-style-type: none"> (1) Surviving spouse (2) Participant's minor child (3) Disabled beneficiary (4) Chronically ill beneficiary (5) Beneficiary less than 10 years younger than participant 	<p>If participant started RMDs before death, DB must take RMDs in each of the 10 years!</p>	<p>The Setting Every Community Up for Retirement Enhancement Act</p>
<p><i>Notice 2022-53</i>: no penalty where DB fails to take RMDs in 2021 or 2022</p>		
<p><i>Notice 2023-54</i>: and no penalty for 2023</p>		
<p><i>Notice 2024-35</i>: and no penalty for 2024!</p>		

26

“This relief does not require taxpayers to make up missed required minimum distributions nor does it permit taxpayers to extend the 10-year deadline by which a full distribution is required to be made. For example, if an employee died in 2020, then in 2025, there are six years remaining in the 10-year period without regard to whether the designated beneficiary took distributions in 2021, 2022, 2023, or 2024. In 2030, the designated beneficiary must take a distribution of the remaining account balance.”

The
Setting
Every
Community
Up for
Retirement
Enhancement
Act

27

Participant Dies	Named Beneficiary	Applicable Withdrawal Rule
Before RBD	-none-	Anytime within 5 years
Before RBD	Designated Beneficiary	Anytime within 10 years
After RBD	-none-	Over participant’s “life expectancy”
After RBD	Designated Beneficiary	Annually over years 1 – 9 based on beneficiary’s life expectancy, then balance in year 10
Before or after RBD	Eligible Designated Beneficiary	Over beneficiary’s life expectancy

The
Setting
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Enhancement
Act

28

Exercise of Stock Options Might be Taxable Gift

Huffman v. Commissioner, T.C. Memo. 2024-12

- 1993: Son pays \$4 to parents for options to buy ~56% of stock in closely-held company at a price of \$5 million
- 2007: When outsider expressed interest in acquiring the company for about \$80 million, Son exercised the options; deal later fizzled
- 2009: Different outside buyer pays \$95.75 million for the company, mostly allocated to goodwill



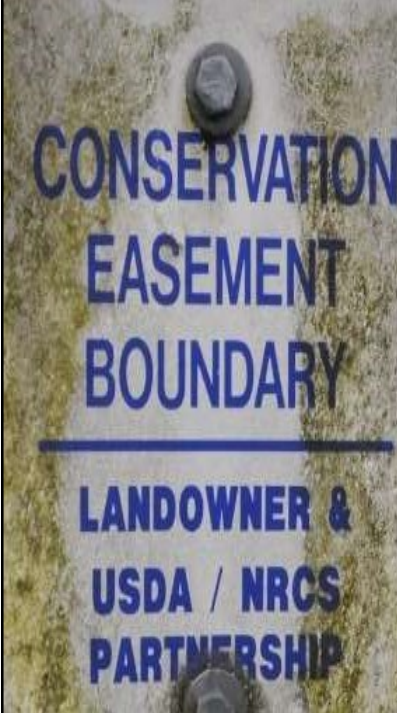
29

FBAR Cases

- *Hendler* (S.D. New York, 9/17/24) → Penalties don't die with decedent
- *Reyes* (E.D. New York, 1/10/24) & *Hughes* (9th Cir. 8/21/24) → Reckless failure is "willful"
- *Schwarzbaum* (11th Cir., 8/30/24) → "Willful" penalty subject to Excessive Fines Clause

TD F 90-22.1		REPORT OF FOREIGN BANK AND FINANCIAL ACCOUNTS		OMB No. 1545-0046	
(Rev. January 2012) Department of the Treasury		Do NOT file with your Federal Tax Return		1 This Report is for Calendar Year Ended 12/31	
Do not use previous editions of this form.				Amended <input type="checkbox"/>	
Part I. Filer Information					
2 Type of Filer <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Consolidated <input type="checkbox"/> Fiduciary or Other—Enter type					
3 U.S. Taxpayer Identification Number		4 Foreign Identification (Complete only if item 3 is not applicable.) <input type="checkbox"/> Type: <input type="checkbox"/> Passport <input type="checkbox"/> Other		5 Individual's Date of Birth MM/DD/YYYY	
6 Last Name or Organization Name		7 First Name		8 Middle Initial	
9 Address (Number, Street, and Apt. or Suite No.)					
10 City		11 State	12 Zip/Postal Code		13 Country
14 Does the filer have a financial interest in 25 or more financial accounts? <input type="checkbox"/> Yes If "Yes" enter total number of accounts _____ (If "Yes" is checked, do not complete Part II or Part III, but retain records of this information) <input type="checkbox"/> No					
Part II. Information on Financial Account(s) Owned Separately					
15 Maximum value of account during calendar year reported		16 Type of account <input type="checkbox"/> Bank <input type="checkbox"/> Securities <input type="checkbox"/> Other—Enter type below			
17 Name of Financial Institution in which account is held					
18 Account number or other designation		19 Mailing Address (Number, Street, Suite Number) of financial institution in which account is held			
20 City		21 State, if known	22 Zip/Postal Code, if known		23 Country

30



Reg. §1.170A-14(g)(6)(ii): Upon extinguishment of a conservation easement and subsequent sale, charity's share of proceeds must equal "the proportionate value that the perpetual conservation restriction at the time of the gift, bears to the value of the property as a whole at that time. ... [T]hat proportionate value of the donee's property right shall remain constant."

While many conservation easement deeds give charity a share of the *net proceeds*, the IRS reads the regulation to require that the charity receive a share of the **gross proceeds**.


Oakbrook Land Holdings LLC v. Commissioner (T.C. 2020) → Regulation **VALID** (16 – 1 vote)

Hewitt v. Commissioner (11th Cir. 2021) → Regulation **INVALID**

Oakbrook Land Holdings LLC v. Commissioner (6th Cir. 2022) → Regulation **VALID**

Valley Park Ranch LLC v. Commissioner (T.C., 3/28/2024) → Regulation **INVALID** (9 – 4 vote)

31



Maggard v. Commissioner, T.C. Memo. 2024-77 (August 7)

- Taxpayer owns 40% of an S corporation, but the company is controlled by embezzlers
- Taxpayer's lawyer asks CFO for Taxpayer's share of net loss and receives the number "\$300,000," written on a napkin!
- When the IRS determines the company had net income, Taxpayer argues that disproportionate distributions terminated the S election!

32




Ideas for Planning in the Current Climate

- Avoiding the state and local tax deduction cap
- Using charitable remainder trusts for retirement plans
- Planning for married couples amid uncertain tax laws

33

Avoiding the cap on the deduction for **STATE AND LOCAL TAXES**

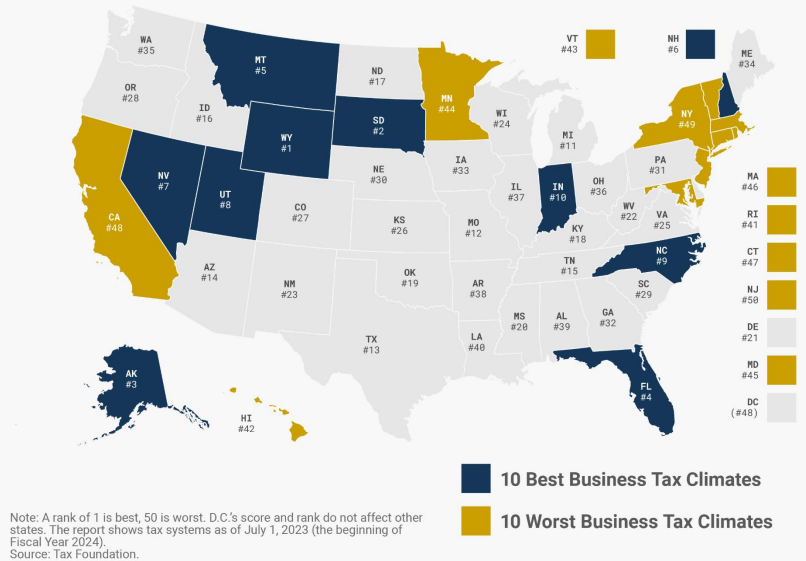


34

Understanding the \$10,000 cap on state and local taxes

- (1) Same cap for singles and MFJ
- (2) Applies to personal taxes
- (3) Trusts may be helpful

2024 State Business Tax Climate Index



TAX FOUNDATION

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35

Charitable Remainder Trusts for Retirement Plans



36

Replaced life expectancy pay-out with **10-year payout** for all BUT “*eligible designated beneficiaries*”

- (1) Surviving spouse
- (2) Participant’s minor child
- (3) Disabled beneficiary
- (4) Chronically ill beneficiary
- (5) Beneficiary less than 10 years younger than participant

The Original:
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37

Charitable Remainder Trusts for Retirement Plans

- Name a CRT as the beneficiary of an IRA or qualified plan
 - Pays annuity to individual beneficiary for life
 - Remainder to charitable organization
- Although a 5-year payout period applies, the CRT is tax-exempt
 - Income will be taxed to individual beneficiary as payments are made
 - Thus resembles a lifetime stretch-out!



38

Estate Planning Templates for Married Couples



39

PLANNING PARADIGMS FOR MARRIED COUPLES



BUCKET ONE
Up to \$13.99 million



BUCKET TWO
\$13.99 - \$27.98 million



BUCKET THREE
\$27.98+ million

40

PLANNING PARADIGMS FOR MARRIED COUPLES



BUCKET ONE
Up to \$13.99 million

- TRUST OR NO TRUST?
- STEPPED-UP BASIS FOR EVERYTHING
 - Outright gift
 - Trust with general power of appointment
 - QTIP trust
- PROTECTIVE PORTABILITY ELECTION

41

PLANNING PARADIGMS FOR MARRIED COUPLES



BUCKET TWO
\$13.99 – 27.98 million

- TRUST OR NO TRUST?
- If NO TRUST (outright gift)
 - All to surviving spouse
 - Disclaimed amounts pass to credit shelter trust
- If TRUST
 - *Clayton* QTIP
 - Unelected amounts pour into credit shelter trust

42

PLANNING PARADIGMS FOR MARRIED COUPLES



BUCKET THREE
\$27.98+ million

- KEEP CALM AND CARRY ON
 - Charitable planning
 - Life insurance planning
 - Sale transaction planning
- SPOUSAL LIFETIME ACCESS TRUST?

43

Spousal Lifetime Access Trusts (SLATs)

- Donor Spouse (DS) creates irrevocable trust for benefit of Beneficiary Spouse (BS) and others
- Structured like a “credit shelter trust” or “exemption trust” or “bypass trust”
- Gift to the SLAT does not qualify for the marital deduction, so it uses up the DS’s exclusion
- Usually structured as a grantor trust for income tax purposes
- No estate tax upon BS’s death
- BS can have testamentary limited power of appointment

44

Spousal Lifetime Access Trusts (SLATs)

- Once transferred, assets don't return to DS (but BS is free to share distributions voluntarily)
- BS gets distributions for health, education, maintenance, and support – not whim
- Upon divorce, BS's interest continues unless "spouse" is defined generically (or divorce serves as termination event)
- If each spouse wants to create SLAT for the other, need to avoid reciprocal trust doctrine
- No stepped-up basis at either spouse's death

45

OTHER CASES OF NOTE



46



47