

High Net Worth Individuals: TCJA, OBBA, and Marriage Planning

Keeping up with major tax legislation is essential when advising wealthy clients on asset protection and estate planning. This course examines key provisions of both the Tax Cuts and Jobs Act and the One Big Beautiful Bill Act through the lens of asset protection planning, then moves into targeted estate planning strategies for married couples. If your practice includes high-net-worth individuals navigating complex ownership structures or family wealth transfers, this course delivers the legislative context and practical grounding you need to advise them with confidence.

CREDIT HOURS 2 | FIELD OF STUDY TAXES | EXAM QUESTIONS 10

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LEARNING ASSIGNMENTS AND OBJECTIVES

Assignment

- Study the full course materials included here.
- Complete the review questions after each chapter.
- Answer 10 final exam questions.
- Final exam is scored immediately, 70% or better passes.
- Certificate of completion is available in your account.
- Failed exams can be retaken free of charge.

Course Objectives

- Recognize changes made by the TCJA and the OBBBA that affect high net worth taxpayers.
- Recognize that most of the TCJA changes were extended or made permanent by the passage of the OBBBA.
- Recall estate planning considerations that are specific to high net worth married couples.

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Chapter 1: KEY PROVISIONS OF THE TAX CUTS AND JOBS ACT OF 2017 (TCJA) AND THE ONE BIG BEAUTIFUL BILL ACT (OBBBA) APPLICABLE TO ASSET PROTECTION PLANNERS

Chapter Objective

After completing this chapter, you should be able to:

- Recognize changes made by the TCJA and the OBBBA that affect high net worth taxpayers.
- Recognize that most of the TCJA changes were extended or made permanent by the passage of the OBBBA.

1.01 INTRODUCTION

The President signed Public Law No. 115-97, generally known as the Tax Cuts and Jobs Act (TCJA), on December 22, 2017. The One Big Beautiful Bill Act (OBBBA) was signed into law by the President on July 4, 2025.

Most of the TCJA's provisions were effective for tax years beginning after 2017, and most of the individual income and transfer tax provisions were temporary and scheduled to sunset at the end of 2025, after eight years. However, the OBBBA extended or made permanent most of the TCJA provisions. This chapter summarizes the TCJA's and the OBBBA's key provisions affecting individuals, small businesses, estates and trusts.

Observation

All tax legislation is inherently temporary in the sense that future administrations often modify tax law. A prime example is the Tax Reform Act of 1986 treatment of capital gains rates where capital gains rates were made equal to the maximum ordinary income tax rates. That change, which was a key part of the 1986 Act and intended to be permanent, only remained in place from 1988 until 1990 or roughly three years. Also, it's important to remember that control of government shifts, much like a pendulum, so that what is popular today may be out of favor tomorrow. The importance of this observation is that there are certain taxpayer-friendly provisions, which may change, possibly even before the sunset dates (*e.g.*, the increased estate, gift and generation-skipping transfer ("GST") tax exemption amounts), and therefore it is incumbent on planners to advise their clients to move expeditiously if they desire to take advantage of these provisions.

The remainder of this chapter is broken into the following three parts:

1. Individual income tax provisions;
2. Business tax provisions; and
3. Estate, gift and GST tax provisions.

1.02 INDIVIDUAL TAX PROVISIONS

General Background of Individual Provisions

Most of the individual tax provisions in the TCJA are temporary. These individual provisions generally phase out or sunset. The OBBBA made most of them permanent.

One of the only substantive permanent changes concerns “Obamacare.” The TCJA permanently repeals the individual mandate in the Patient Protection and Affordable Care Act. Previously, individuals without sufficient health insurance coverage (such as government-sponsored plans, employer-sponsored plans, individual market plans, etc.) were required to pay a fee/penalty, but this provision has been effectively permanently repealed by lowering the penalty to \$0.

Another major permanent change, is the new measure of inflation that will be used for adjusting various tax provisions (*e.g.*, gift tax annual exclusions, income tax rates, estate tax exemptions, etc.). The inflation indexing for most individual tax provisions was previously based on the consumer price index (“CPI”). The TCJA changes the index to the “chained CPI,” which accounts for consumer preferences for less expensive substitute goods during periods of inflation. As a general matter, the chained CPI results in smaller increases to indexed amounts. To illustrate, this change will result in a slower increase to the estate tax exemption than would be the case under a CPI method of indexing and is likely to cause changes that will later be seen in the long-term, such as placing more taxpayers in higher tax brackets than the previous indexing method.

Note

Although the change in inflation adjustments is likely to be less noticeable to taxpayers because of its technical and mostly hidden nature, over time this will have a significant adverse impact on taxpayers.

The TCJA makes several changes to individual income tax provisions, with which asset protection planners should be familiar. This section discusses these provisions.

Income Tax Rates

The TCJA temporarily changes individual tax rates through 2025. The OBBBA made them permanent, although the seven-rate structure remains the same. The current pre-TCJA rate

structure for individuals has seven rates: 10%, 15%, 25%, 28%, 33%, 35%, and 39.6%. The new tax structure under the TCJA changes those rates to 10%, 12%, 22%, 24%, 32%, 35%, and 37%. These measures are effective for tax years starting in 2018. The Tax Policy Center published a comparison chart that shows the changes in the law with regard to individual tax rates, shown here in Figure 1-1.

FIGURE 1-1.

Individual tax rates	Current Law					Tax Cuts and Jobs Act (Conference Committee)				
	Taxable Income (\$)					Taxable Income (\$)				
	Single Filers		Married Couples		Tax rate (%)	Single Filers		Married Couples		Tax rate (%)
	Over	But not over	Over	But not over		Over	But not over	Over	But not over	
	0	9,252	0	19,050	10	0	9,525	0	19,050	10
	9,252	38,700	19,050	77,400	15	9,525	38,700	19,050	77,400	12
	38,700	93,700	77,400	156,150	25	38,700	82,500	77,400	165,000	22
	93,700	195,450	156,150	237,950	28	82,500	157,500	165,000	315,000	24
	195,450	424,950	237,950	242,950	33	157,500	200,000	315,000	400,000	32
	424,950	426,700	242,950	480,050	35	200,000	500,000	400,000	600,000	35
	426,700	and over	480,050	and over	39.6	500,000	and over	600,000	and over	37

Deduction of Qualified Business Income of Passthrough Entities and Sole Proprietorships

Another temporary change is a new deduction for certain individuals (as well as trusts and estates) with “domestic qualified business income of pass-through entities and sole proprietorships,” which phases out in 2025. The OBBBA made this provision permanent. Essentially, this provision allows individual taxpayers to deduct 20% of domestic qualified business income from certain qualified partnerships such as S corporations. This provision is discussed in more detail below.

Tax Rates for Capital Gains, Dividends, and Net Investment Income Tax

Tax rates for capital gains, dividends, and net investment income tax remain unchanged by the TCJA. However, the structure does change slightly. The TCJA retains the same “breakpoints” for application of these rates as under current law, except the breakpoints will be adjusted for inflation after 2018.

Standard Deduction and Personal Exemption

The standard deduction is \$16,100/\$24,150/\$32,200 for 2026 and indexed for inflation thereafter. Furthermore, the personal exemption is eliminated entirely. What this means is that these two changes will likely result in some tax savings for many (not necessarily all) taxpayers. Since the standard deduction has increased while many itemized deductions for individuals are quickly

becoming more limited, it's likely that many more taxpayers will use the standard deduction. As a result, many won't claim income tax benefits from some itemized deductions such as charitable contributions, state and local tax ("SALT") payments, and other payments that are still considered deductions.

In addition, the TCJA and the OBBBA place limits on certain deductions, most notably the deduction for SALT payments. These are now limited to \$40,000 for 2025 (\$40,400 in 2026). This increases one percent per year through 2029, and reverts back to \$10,000 in 2030.

The TCJA also increases the percentage ceiling for cash contributions from 50% of Adjusted Gross Income ("AGI") to 60% of AGI.

Furthermore, the TCJA (temporarily – until 2025) eliminated the deduction for itemized miscellaneous deductions. The OBBBA made this permanent.

Comment

One of the most controversial changes in the TCJA is the disallowance of the SALT deduction, which impacts large swaths of the public, especially in certain high tax states on the east and west coast, such as New York, New Jersey, California, and Maryland. There are certain steps that states are already taking to mitigate this and others that some taxpayers may be able to take. However, it is unclear whether the IRS will push back on some of these efforts. Most states have changed their tax laws to allow pass-through entities to pay state taxes on their income, then allowing the individual the ability to take a credit on their individual return for this amount. The OBBBA did not disallow this procedure.

Alternative Minimum Tax ("AMT") Deduction

The TCJA makes certain modifications to the AMT. The AMT, which is a supplemental income tax, has been repealed for corporations. For individuals, the AMT is not repealed.

- **Exemption Amounts:** The OBBBA permanently extends the higher AMT exemption amounts established by the TCJA, which were previously set to expire in 2026. These amounts will continue to be adjusted annually for inflation. For 2025, the exemption amounts are \$88,100 (\$90,100 for 2026) for individuals and \$137,000 (\$140,200 for 2026) for married couples filing jointly.
- **Phase-out Thresholds:** Starting in 2026, the AMT exemption phase-out thresholds will revert to 2018 levels: \$500,000 for individuals and \$1,000,000 for married couples filing jointly. These thresholds will also be adjusted for inflation annually. This means that for 2026, the phase-out thresholds will be lower than the higher thresholds that applied in 2025.

- **Phase-out Rate:** The OBBBA also increases the exemption phase-out rate from 25% to 50% for amounts exceeding the threshold, starting in 2026.

In essence, while the AMT exemption amounts themselves remain relatively high due to the OBBBA, the lower phase-out thresholds and the accelerated phase-out rate mean that the exemption will be phased out faster for higher-income taxpayers starting in 2026. This could potentially lead to more taxpayers owing the AMT in 2026 and beyond.

Child Tax Credit

- **Maximum credit amount:** The maximum Child Tax Credit increases to \$2,200 per qualifying child for the 2026 tax year.
- **Refundable portion:** The refundable portion of the credit, known as the Additional Child Tax Credit (ACTC), is capped at \$1,700 per qualifying child.
- **Inflation adjustment:** The maximum credit amount will be adjusted annually to account for inflation.
- **Social Security number requirement:** For the 2026 tax year, both the child and the person claiming the credit must have a Social Security number. However, only one parent is required to have a Social Security number for joint tax filers to qualify.

Eligibility

To be eligible for the 2026 Child Tax Credit, you must meet the following criteria:

- **Age:** The qualifying child must be 16 years old or younger at the end of the tax year.
- **Relationship:** The child must be your son, daughter, stepchild, foster child, brother, sister, half-brother, half-sister, stepbrother, stepsister, or a descendant of any of them. The child can also be your grandchild, niece, or nephew.
- **Residency:** The child must have lived with you for more than half of the tax year.
- **Support:** The child must not have provided more than half of their own support for the year.

Income Limitations

The full Child Tax Credit amount may be reduced or phased out if your modified adjusted gross income (MAGI) exceeds certain thresholds:

- **Single, Head of Household, or Qualifying Surviving Spouse:** The credit begins to phase out if your MAGI exceeds \$200,000.
- **Married Filing Jointly:** The credit begins to phase out if your MAGI exceeds \$400,000.

Note

The credit is reduced by \$50 for each \$1,000 of income above the threshold.

Like-Kind Exchanges

The TCJA severely curtails like-kind exchanges, limiting the nonrecognition of gain in like-kind exchanges to like-kind exchanges of real property not held primarily for sale.

Previously, the like-kind exchange provisions provided that no gain or loss would be recognized if property held for productive use in a trade or business or for investment was exchanged for property of a “like kind” which was to be held for productive use in a trade or business or for investment.

Code Sec. 529 Plans

Before the TCJA, 529 plans were primarily used for college education. This meant that they could only support spending on college-related expenses, such as tuition or collegiate extracurricular activities. The TCJA modifies Code Sec. 529 so that 529 plans may now be used for K-12 education. This means that they can now be used to pay for private high schools or elementary schools. The OBBBA allows funds from a 529 account to roll into an ABLE account.

Alimony

The TCJA changes the tax treatment of alimony and separate maintenance payments, providing that such payments are no longer deductible by the payor spouse. As a result, income used for such payments will be taxed at the rates applicable to the payor spouse rather than the recipient spouse. The treatment of child support has not changed.

The new alimony provisions are effective for any divorce or separation instrument executed after December 31, 2018, or for any divorce or separation instrument executed on or before December 31, 2018, and modified after that date, if the modification expressly provides that the amendments made by this section apply to such modification.

Charitable Contributions

For Individuals

- **Deduction for Non-Itemizers:** Individuals who do not itemize deductions can now claim a deduction for cash contributions. This deduction is up to \$1,000 for individuals and \$2,000 for joint filers, and is effective for tax years starting in 2026. This aims to broaden the donor base. However, contributions to certain entities like donor-advised funds or private foundations are not eligible.