

The Tax Update: 2025

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LEGISLATIVE UPDATE

1. One Big Beautiful Bill Act (OBBBA)

The One Big Beautiful Bill Act (OBBBA)¹, signed into law on July 4, 2025, represents one of the most significant tax reforms affecting elder law practice in recent years. This comprehensive legislation extends and modifies key provisions of the Tax Cuts and Jobs Act (TCJA) while introducing new benefits specifically targeting seniors and high-net-worth individuals. For elder law practitioners, the Act's most impactful provisions include a new \$6,000 senior deduction, permanent increases to estate and gift tax exemptions, enhanced SALT deduction limits, charitable deduction expansions, and extensions of various TCJA provisions through 2034.

The legislation affects virtually every aspect of elder law tax planning, from basic income tax planning for retirees to sophisticated wealth transfer strategies for high-net-worth clients. Understanding these changes is crucial for practitioners advising elderly clients on retirement planning, estate planning, Medicaid planning, and family wealth transfer strategies.

Senior-Specific Tax Relief Provisions

The Act's most visible benefit for elderly clients emerges through a new \$6,000 deduction available to individuals age 65 and older, effective for tax years 2025 through 2028. Importantly, this deduction is available regardless of whether the taxpayer itemizes or takes the standard deduction, creating substantial tax relief opportunities across different client situations.

The deduction's structure demonstrates Congress's targeted approach to senior tax relief. Any individual who has attained age 65 by the end of the tax year becomes eligible for the full \$6,000 deduction, with both spouses in a marriage able to claim the benefit if both qualify. The provision includes income-based phase-outs that begin at \$75,000 for single filers and \$150,000 for married couples filing jointly, ensuring the benefit targets middle-income seniors while remaining available to those with moderate retirement incomes.

The deduction's design allows it to stack with existing senior standard deduction increases of \$2,000 for single filers and \$3,200 for married couples. This creates remarkable tax relief opportunities, particularly when considering that a married couple where both spouses are over 65 would receive approximately \$31,400 in standard deductions for 2025, plus \$6,000 for each spouse, totaling \$43,400 in deductions before even considering itemized deductions.

¹ Public Law 119-21.

For non-itemizing taxpayers, the Act provides an additional benefit: beginning in 2026, taxpayers can deduct \$1,000 (\$2,000 on a joint return) for charitable contributions without itemizing. This creates new charitable planning opportunities for seniors who prefer the simplicity of the standard deduction but want to support their favorite causes.

For taxpayers who itemize deductions—perhaps due to high medical expenses in a particular year—the \$6,000 senior deduction provides additional relief beyond the medical expense deduction. This proves particularly valuable for elderly clients facing significant healthcare costs, as they can benefit from both the medical expense deduction and the senior deduction without having to choose between them.

The deduction also creates significant opportunities in Social Security taxation planning. Many seniors will find that the additional deduction reduces or eliminates federal taxes on Social Security benefits, effectively providing the targeted relief that AARP specifically endorsed during the legislative process. This proves particularly beneficial for clients receiving substantial Social Security payments who might otherwise face taxation on up to 85% of their benefits under current graduated taxation thresholds.

Enhanced State and Local Tax (SALT) Deduction

The Act significantly modifies the SALT deduction limitation that has constrained tax planning since the TCJA's enactment. The itemized deduction for state and local taxes increases to \$40,000 in 2025 and will rise by 1% per year through 2029, providing meaningful relief for clients in high-tax states. In 2030, the \$10,000 cap returns, creating planning opportunities during the enhanced period.

However, the enhanced SALT deduction includes income-based limitations for high earners. Through 2029, the SALT deduction is reduced—but not below \$10,000—for those with modified adjusted gross income over \$500,000. The SALT deduction is reduced by 30% of the amount by which the taxpayer's MAGI exceeds \$500,000. Once MAGI exceeds \$600,000, the maximum SALT deduction remains at \$10,000, effectively creating a cliff for ultra-high earners.

This structure creates strategic planning opportunities for retirees considering state income tax acceleration or retirement account distributions. Clients with MAGI near the \$500,000 threshold may benefit from income smoothing strategies to maximize SALT deduction benefits during the enhanced period.

Education Planning Enhancements

The Act expands 529 education savings plan benefits, making these vehicles more attractive for multi-generational planning. 529 plans can now be used for post-high school credential programs, trade schools, and professional certification programs, broadening their utility beyond traditional four-year college planning. This expansion proves particularly valuable for grandparents funding education for grandchildren pursuing

diverse career paths, including skilled trades and professional certifications that may not require traditional college degrees.

Estate and Gift Tax Transformations

The Act's most significant long-term impact on elder law practice emerges through permanent modifications to federal estate and gift tax exemptions. Section 70106 of OBBBA amends Internal Revenue Code Section 2010(c) to establish a framework that eliminates the dramatic reduction that was scheduled to occur on January 1, 2026, while actually increasing exemption amounts beyond current levels.

The practical implications for estate planning practice prove transformative. Clients no longer face the December 31, 2025 deadline that had been driving rushed gifting decisions and compressed planning timelines. The elimination of deadline pressure allows for more sophisticated planning techniques that can be implemented over multiple years with careful

Under the TCJA, the basic exclusion amount was temporarily doubled from \$5 million to \$10 million, adjusted for inflation, for the years 2018 through 2025. However, this increase contained an automatic sunset provision that would have reduced the exemption to approximately \$7.2 million in 2026. This impending reduction created intense pressure for wealthy families to accelerate gifting strategies before the deadline, often forcing suboptimal planning decisions driven by artificial time constraints rather than sound financial planning principles.

The OBBBA eliminates this cliff entirely while establishing a new permanent exemption structure. Beginning in 2026, the basic exclusion amount increases to \$15 million per individual, with continued inflation indexing using 2025 as the new base year. Crucially, the legislation includes no sunset provision, making this increase permanent absent future legislative action by Congress. This represents a fundamental shift from the temporary relief mentality that has dominated estate planning since the TCJA's enactment.

The practical implications for estate planning practice prove transformative. Clients no longer face the December 31, 2025 deadline that had been driving rushed gifting decisions and compressed planning timelines. Instead, families can engage in more measured, strategic wealth transfer planning that aligns with their long-term financial goals rather than artificial legislative deadlines. The elimination of deadline pressure allows for more sophisticated planning techniques that can be implemented over multiple years with careful consideration of market conditions, family circumstances, and optimal timing.

The higher permanent exemption also enhances the viability of grantor trust strategies and other sophisticated estate planning techniques. With \$15 million exemptions per person, married couples can potentially transfer \$30 million during their lifetimes without

gift tax consequences, creating substantial opportunities for wealth transfer while retaining the flexibility to adjust strategies based on changing circumstances.

However, practitioners must understand that the Act maintains existing complexities around Generation-Skipping Transfer (GST) tax planning. While the GST tax exemption increases to match the basic exclusion amount of \$15 million in 2026, GST exemptions remain non-portable between spouses. This creates both opportunities and traps in planning for ultra-high-net-worth families. Each spouse possesses a separate \$15 million GST exemption, making strategic allocation of these exemptions increasingly valuable. Dynasty trust planning becomes more attractive for families with substantial wealth, but the non-portable nature means that failure to properly use one spouse's GST exemption results in permanent loss of that planning opportunity.

Significantly, the Act does not modify the portability election rules that were highlighted in cases such as *Estate of Rowland v. Commissioner*. The procedural requirements for deceased spousal unused exclusion (DSUE) elections remain unchanged, meaning practitioners must continue to navigate the complex requirements for timely filing Form 706, ensuring complete and proper preparation, and understanding the nuances of Rev. Proc. 2017-34's safe harbor provisions for late filings. The increased exemption amounts make proper portability planning even more valuable, as the stakes for procedural errors now involve potentially losing access to \$15 million in exemption benefits.

Income Tax Planning Considerations

The Act's extension of TCJA individual tax provisions through 2034 provides unprecedented certainty for long-term elder law planning. This extension encompasses the lower individual tax rate structure, including the 37% top rate, enhanced standard deductions, expanded Child Tax Credit provisions relevant for grandparents raising grandchildren, the \$10,000 state and local tax (SALT) deduction limitation, and the 20% qualified business income deduction under Section 199A.

These extensions create significant opportunities for retirement distribution planning. The certainty of lower tax rates through 2034 may influence Roth conversion strategies and retirement account distribution timing. Clients can now plan Roth conversions over extended periods, taking advantage of lower current tax rates while managing the timing of conversions to optimize overall tax outcomes. The extended timeline allows for more sophisticated multi-year distribution strategies that can smooth income across tax brackets and minimize overall lifetime tax burden.

For elderly business owners, the extension of the Section 199A deduction proves particularly valuable in business succession planning contexts. The 20% deduction on qualified business income can significantly reduce the tax burden on business income during transition periods, making succession planning more tax-efficient and potentially allowing for more favorable terms in intergenerational transfers.

The continued SALT limitation creates ongoing planning challenges for clients in high-tax states. The \$10,000 cap affects retirement migration decisions and domicile planning strategies, potentially making relocation to low-tax states more attractive for high-income retirees. Elder law practitioners should incorporate SALT limitation analysis into retirement location planning and consider the interplay between state tax savings and other factors such as state estate taxes and asset protection laws.

While less directly relevant to typical elder law clients, the Act's provisions eliminating income taxes on tips and overtime pay may benefit elderly clients who continue working in service industries or consulting roles. This relief recognizes that many seniors continue working past traditional retirement ages, either by choice or financial necessity, and provides meaningful tax relief for this growing demographic.

Implementation Timeline and Sunset Considerations

The Act's implementation involves both immediate and future effective provisions that require careful coordination in planning strategies. The \$6,000 senior deduction becomes available immediately for the 2025 tax year, allowing clients to begin realizing benefits with their current year tax planning. The TCJA extensions also begin immediately, providing continuity in tax planning assumptions through 2034.

The \$15 million estate tax exemption takes effect January 1, 2026, with inflation indexing beginning in 2027 using 2025 as the new base year. This timeline allows for careful preparation and strategic planning throughout 2025 to optimize the transition to higher exemption amounts. Estate planning documents can be prepared and executed during 2025 with confidence in the new exemption levels, eliminating the uncertainty that had characterized planning under the previous sunset provisions.

The temporary nature of the senior deduction, which expires after 2028, requires strategic planning to maximize benefits during the four-year window while preparing for its eventual expiration. Clients should consider accelerating Roth conversion strategies during periods when the deduction reduces their current taxable income, potentially allowing for more efficient long-term tax planning. Long-term care insurance decisions may also be influenced by the temporary tax savings, as clients may have additional cash flow during the deduction period to fund insurance premiums or other planning strategies.

AGENCY UPDATE

1. FinCEN Update to Corporate Transparency Act

The Corporate Transparency Act was enacted as part of the National Defense Authorization Act for Fiscal Year 2021, representing Congress's most significant anti-money laundering reform in decades. The law was designed to close a major gap in U.S. financial transparency by requiring small corporations and limited liability companies to report information about their beneficial owners—the real people who ultimately own or control the company—to the Financial Crimes Enforcement Network (FinCEN). The CTA

aimed to prevent the misuse of anonymous shell companies for illicit purposes such as money laundering, tax evasion, and terrorism financing. Originally, most small businesses formed in or registered to do business in the United States were required to file beneficial ownership information reports, with limited exemptions for larger companies already subject to federal reporting requirements.

On March 2, 2025, the Treasury Department announced that it will not enforce any penalties or fines associated with the beneficial ownership information reporting rule under existing regulatory deadlines against U.S. citizens or domestic reporting companies.² This represents a significant policy shift under the Trump administration, with Treasury Secretary Scott Bessent characterizing it as supporting small businesses and reducing regulatory burden. FinCEN published an interim final rule with an effective date of March 26, 2025, that revised the definition of "reporting company" to mean only those entities formed under foreign country law that have registered to do business in any U.S. State or tribal jurisdiction.³

The CTA's requirements now effectively apply only to foreign companies operating in the United States. FinCEN has removed the requirement for U.S. companies and U.S. persons to report beneficial ownership information under the Corporate Transparency Act, while maintaining obligations for foreign reporting companies. This dramatic narrowing of scope represents a fundamental change from the original legislation, which was designed to require most small U.S. companies to report beneficial ownership information to combat money laundering and other illicit activities. This move comes after a volatile implementation history of the CTA since taking effect in January 2024. In February 2025, the U.S. District Court for the Eastern District of Texas stayed its nationwide preliminary injunction blocking the enforcement of the CTA.

2. Private Letter Ruling 202507005

This is a private letter ruling (PLR) issued by the IRS in response to a request from "Distributing," a closely held S corporation with two classes of common stock (Class A voting and Class B non-voting) that operates two separate businesses (Business A and Business B). The company sought IRS approval for a corporate spin-off transaction designed to separate these businesses due to their fundamentally different capital and operational needs, with the stated business purpose being "fit and focus."

The proposed transaction involves two main steps: first, Distributing would form a new corporation called "Controlled" with the same capital structure, then transfer all assets of Business B to Controlled in exchange for all of Controlled's stock (the "Contribution"); second, Distributing would distribute all shares of Controlled stock to its existing shareholders on a pro rata basis, with shareholders receiving corresponding classes of

² <https://home.treasury.gov/news/press-releases/sb0038>.

³ <https://www.federalregister.gov/documents/2025/03/26/2025-05199/beneficial-ownership-information-reporting-requirement-revision-and-deadline-extension>.

stock in both corporations (the "Distribution"). The transaction is structured to qualify as a tax-free reorganization under Section 368(a)(1)(D) of the Internal Revenue Code.

The taxpayer made numerous representations to support the ruling request, including that both businesses have operated actively for at least five years, the transaction serves legitimate business purposes rather than being a device to distribute earnings and profits, no intercorporate debt will exist between the companies after the split, continuing transactions will be conducted at fair market value, and various requirements under Section 355(d) regarding stock ownership will be satisfied. Additionally, they represented that except for one transitional employee, the companies will operate independently with separate workforces following the transaction.

The IRS granted favorable rulings on all requested tax consequences, confirming that the transaction will qualify as a tax-free reorganization with no gain or loss recognition to the distributing corporation, the controlled corporation, or the shareholders upon receipt of the distributed stock. The ruling specifies how basis and holding periods will be allocated and preserved, and requires proper allocation of earnings and profits between the two corporations. However, the IRS explicitly reserved judgment on three critical requirements: whether the transaction satisfies the business purpose requirement, whether it constitutes a prohibited device for distributing earnings and profits, and whether it is part of a plan involving acquisitions that would violate the continuity of interest rules. The ruling applies only to the specific taxpayer and cannot be cited as precedent, and taxpayers must attach copies of the ruling to their tax returns for the year the transaction is completed.

CASE LAW UPDATE

1. *Estate of Bolles v. Commissioner* (9th Cir. April 1, 2024)

The Estate of Mary P. Bolles appealed a Tax Court decision that found an estate tax deficiency and denied administrative costs. The central dispute involved payments that Mary Bolles made to her son Peter between 1985 and 2007, with the Tax Court needing to determine whether these payments constituted loans or gifts for estate tax purposes.

The Tax Court distinguished between two time periods in Mary's payments to Peter. From 1985 to 1989, the court found the payments were loans because a genuine creditor-debtor relationship existed. Peter was running his father's struggling architecture practice, and Mary had previously made similar loans to her husband that were repaid. The court reasonably concluded Mary expected repayment once the business recovered. However, payments from 1990 to 2007 were classified as gifts due to changed circumstances: Peter made no repayments during this period, was excluded from Mary's personal trust in late 1989, and signed an agreement acknowledging he lacked assets or earning capacity to repay the debts.

The Tax Court also denied the Estate's request for administrative and litigation costs. To recover such costs, the Commissioner's position must not have been "substantially

justified." The court found the Commissioner's position was justified because they presented two reasonable alternative theories—that the payments were either loans or gifts—and every payment fell under one of these theories. The Estate's argument that the Commissioner's position should be construed as requiring all payments to be either loans or all gifts was rejected as overly restrictive.

The Ninth Circuit Court of Appeals affirmed the Tax Court's decision, finding no clear error in the factual determinations and agreeing with the legal conclusions. The appeals court also granted the Estate's motion for judicial notice regarding related gift-tax cases that were dismissed for lack of jurisdiction, noting that both parties referenced these cases and neither disputed their dismissal.

2. *Estate of Becker v. Commissioner*, T.C. Memo 2024-89 (Sept. 24, 2024)

In July 2014, Dr. Larry Becker created an irrevocable life insurance trust for his wife and descendants, funded with two life insurance policies on his life totaling nearly \$20 million in death benefits. The Trust funded the initial 30 months of premiums through a complex chain of loans: insurance broker Barry Steinfelder borrowed money from Dr. Julia Wen, then loaned it to Dr. Becker, who deposited the funds into the Trust to pay premiums. Subsequently, Steinfelder's company ALD repaid Dr. Wen and acquired the right to repayment from the Trust, with first priority security interests in the policies. These obligations were later transferred to JTR, LLC.

In late 2014, the Trust entered into a Loan and Security Agreement with LT Funding, which obligated LT Funding to pay future premiums in exchange for 75% of the death benefits, plus repayment of all premiums advanced with 6% interest. This arrangement had senior payment rights over the Trust's obligation to JTR. Dr. Becker died unexpectedly in January 2016, and the policies paid out approximately \$19.5 million in death benefits to the Trust, leading to disputes among various parties over entitlement to the proceeds.

The IRS assessed a \$4.19 million estate tax deficiency, arguing that the policy proceeds should be included in Dr. Becker's gross estate under Sections 2031 and 2042(2) of the Internal Revenue Code. The IRS contended that under Maryland's insurable interest statute, the policies violated state law because the proceeds were not primarily for the benefit of trust beneficiaries with insurable interests, but rather for third parties like LT Funding. The Estate countered that the Trust had valid insurable interests since Dr. Becker was the grantor and the beneficiaries (his wife and descendants) had insurable interests in his life.

The Tax Court analyzed whether the step transaction doctrine should collapse the various transactions, focusing on the "end result" and "interdependence" tests. Under the "end result" test, the Court rejected the IRS's argument that the parties intended from the outset to transfer benefits to LT Funding, noting that LT Funding was not identified when the policies were issued. Under the "interdependence" test, the Court found that each step had independent significance, particularly since the Trust was entitled to nearly \$20

million in death benefits and the policies were fully funded for 30 months from the initial premium payments.

The Tax Court ruled in favor of the Estate, determining that the policies did not violate Maryland's insurable interest statute because they were validly issued for the benefit of trust beneficiaries who had insurable interests in Dr. Becker's life. Since there was no violation of state law, there was no cause of action under Maryland law, and therefore no basis for including the policy proceeds in Dr. Becker's gross estate under either Section 2042(2) or Section 2033 of the Internal Revenue Code. The Court emphasized that validly issued policies remain legal even when subsequently assigned to parties without insurable interests.

3. *Estate of Fields v. Commissioner*, T.C. Memo 2024-90 (Nov. 4, 2024)

Anne Milner Fields, a successful Texas businesswoman who inherited and built an oil business after her husband's death in 1963, relied heavily on her great-nephew Bryan Milner in her later years after developing Alzheimer's dementia in 2011. On May 20, 2016, just over a month before Ms. Fields's death on June 23, 2016, Mr. Milner used his comprehensive power of attorney to create AM Fields Management, LLC (of which he was sole member and manager) and AM Fields, LP (a limited partnership). He then transferred approximately \$17 million of Ms. Fields's assets—representing most of her wealth—to the partnership in exchange for a 99.9941% limited partner interest, while AM Fields Management received a 0.0059% general partner interest for a \$1,000 contribution.

The IRS challenged the estate plan, asserting that Section 2036(a) required inclusion of the full \$17 million in transferred assets rather than just the discounted partnership interest value of \$10.8 million reported on the estate tax return. The Tax Court applied the three-part test for Section 2036(a): whether there was an inter vivos transfer (undisputed), whether the decedent retained applicable rights or interests in the transferred property, and whether the transfer constituted a bona fide sale for adequate and full consideration. The court found that Ms. Fields retained both the right to income from the transferred assets and enjoyment of those assets, since Mr. Milner (as her agent and manager of the general partner) had absolute discretion to make distributions and did in fact make distributions to pay estate expenses and bequests.

The Tax Court found the timing of the transactions highly suspicious and rejected Mr. Milner's testimony about legitimate business purposes. The court noted that Ms. Fields fell during the first week of May 2016, was hospitalized with a heart attack from May 21-25, was diagnosed with end-stage Alzheimer's on June 9, placed in hospice care on June 15, and died on June 23—yet the estate planning transactions proceeded rapidly during this period of precipitous health decline. The court observed that there was no evidence of any discussion about asset restructuring until Ms. Fields's health deteriorated, and the only contemporaneous documentary evidence of motivation was an email about "obtaining a deeper discount" for tax purposes.

The Estate argued four legitimate business purposes: protection from financial elder abuse, succession management, resolving third-party refusal to honor the power of attorney, and consolidated asset management. However, the Tax Court concluded these were "post hoc theoretical justifications" rather than actual motivations. The court emphasized several troubling factors: the transferred assets were disparate in nature with no business synergies, there was virtually no pooling of assets for joint enterprise, the assets were not "working" business interests requiring active management, and the transfers depleted Ms. Fields's liquidity to the point that partnership distributions were needed to pay estate obligations. The court found the transfers were not bona fide sales but rather testamentary in nature designed primarily to reduce estate taxes.

The Tax Court ruled that Section 2036(a) applied, requiring inclusion of \$17,062,631 (the fair market value of the transferred assets) in the gross estate rather than the \$10,877,000 discounted partnership interest value reported by the Estate. The court also imposed a 20% accuracy-related penalty under Section 6662(a) and (b)(1) for negligence, finding that the Estate failed to establish reasonable cause or good faith reliance on professional advice. The court noted that a reduction of approximately \$6.2 million in reportable assets through "the seemingly inconsequential interposition of a limited partner interest between Ms. Fields and her assets on the eve of her death would strike a reasonable person in Mr. Milner's position as very possibly too good to be true."

4. *Nosirrah Management, LLC v. AutoZone, Inc.* (W.D. Tenn. April 14, 2025)

Nosirrah Management, LLC brought a derivative action against AutoZone, Inc. and its former CEO William C. Rhodes III, alleging violations of Section 16(b) of the Securities Exchange Act. The case addressed whether GRAT annuity distributions of company stock to corporate insiders constitute "acquisitions" subject to short-swing profit rules.

Rhodes had established a Grantor Retained Annuity Trust (GRAT) holding AutoZone stock. The trust distributed AutoZone shares to Rhodes as required annuity payments. Within six months of receiving these shares, Rhodes sold them for approximately \$1 million in profit. Nosirrah Management claimed this constituted a Section 16(b) violation requiring disgorgement of profits from the purchase (GRAT distribution) and sale occurring within six months.

Section 16(b) requires corporate insiders to disgorge profits from purchases and sales of company securities occurring within six months, regardless of intent or actual use of inside information. The rule creates strict liability for covered transactions. However, SEC Rule 16a-13 exempts transactions that are "mere changes of form" without changing the person's pecuniary interest in the securities.

The Plaintiff argued that the GRAT annuity payment constituted an "acquisition" under Section 16(b). Rhodes' subsequent sale within six months created a prohibited short-swing transaction requiring profit disgorgement. The Defendant argued that the GRAT distributions qualified for Rule 16a-13's exemption as "mere changes of form." Rhodes maintained consistent beneficial interest in the AutoZone shares throughout—indirect

interest through the GRAT before the annuity payment, direct ownership afterward, with no change in economic exposure.

The Western District of Tennessee granted summary judgment for defendants, dismissing the case. The court held that GRAT annuity distributions qualified for Rule 16a-13's "change in beneficial ownership" exception. The court focused on economic substance rather than form, finding Rhodes' beneficial interest remained constant throughout the process. The annuity payment merely converted indirect interest to direct ownership without altering pecuniary interest in the underlying securities.

This decision provides crucial clarity for corporate insiders using GRATs with company stock. Prior uncertainty about Section 16(b) exposure had created hesitancy about these vehicles. The ruling confirms that properly structured GRAT annuity payments in company stock do not constitute "acquisitions" when the beneficiary's economic interest remains unchanged.

5. *Estate of Galli v. Commissioner*, T.C. Docket No. 7003-20 and 7005-20 (March 5, 2025)

This Tax Court case involves consolidated gift tax and estate tax disputes stemming from a \$2.3 million transaction between Barbara Galli and her son Stephen in 2013. Barbara, who was 79 at the time, transferred the money to Stephen under the terms of a promissory note with a 9-year term and 1.01% interest rate, which matched the applicable federal rate published by the IRS for February 2013. The parties treated this as a legitimate loan rather than a gift, so no gift tax return was filed. Stephen made the required annual interest payments, and when Barbara died in 2016, the unpaid loan balance was included on her estate tax return.

The IRS challenged this arrangement by issuing deficiency notices for both gift tax and estate tax. The Commissioner's position was that the difference between the \$2.3 million loan amount and the fair market value of Stephen's repayment obligation constituted an unreported gift of \$869,000. The IRS argued that the loan lacked the commercial terms necessary to create a legally enforceable right to repayment comparable to arm's-length transactions, questioned Stephen's ability and intent to repay, and suggested Barbara never intended to enforce collection or expected actual repayment.

Stephen defended the transaction by arguing that IRC § 7872, which governs below-market loans, should apply to resolve the dispute. His position was straightforward: since the loan charged the applicable federal rate set by the IRS, it could not be classified as a "below-market loan" under that section. Therefore, the entire transaction should be respected as a legitimate loan with no gift tax consequences. He supported this with substantial documentation including bank records showing the transfer, the signed promissory note, records of his annual interest payments, and his mother's tax returns reporting the interest as income.

Judge Holmes found that the Commissioner failed to adequately support his position in the summary judgment proceedings. While the IRS's deficiency notices contained language suggesting the transaction might be recharacterized as partially or entirely a gift, the Commissioner provided insufficient evidence to create a genuine dispute for trial. In contrast, Stephen presented comprehensive documentation supporting the loan characterization. The court noted that even if the Commissioner intended to argue for complete recharacterization as a gift, the opposition papers were "wholly inadequate" under the court's procedural rules.

The court granted summary judgment in Stephen's favor on both cases, ruling that IRC § 7872 provides comprehensive treatment of below-market loan situations and displaces traditional fair market value analysis. Since the Galli loan charged the applicable federal rate, it was not a below-market loan subject to gift tax treatment under that section. Judge Holmes concluded that the transaction was a legitimate loan rather than a gift or partial gift, resolving both the gift tax deficiency and the related estate tax issues in Stephen's favor and establishing that no gift tax return was required to be filed for the 2013 transaction.

6. *Pierce v. Commissioner*, T.C. Memo 2025-76 (April 7, 2025)

This Tax Court case involves a federal gift tax dispute over the valuation of interests in Mothers Lounge, LLC, a baby products company. In 2014, petitioner and his ex-wife each gifted 29.4% interests to irrevocable trusts and sold 20.6% interests to a limited liability company, with the IRS challenging their reported valuations and imposing significant deficiencies and penalties.

Mothers Lounge operated through a deceptive "free, just pay shipping" business model that knocked off popular baby products. The company would advertise products as "free" but charge inflated shipping costs (typically \$7.95) that far exceeded actual shipping expenses (\$1.57), generating profits from this price discrepancy. They systematically copied successful products from competitors, manufacturing cheap replicas in China and using separate subsidiaries for each product to maintain the illusion of different companies.

The company experienced rapid early success, particularly after a promotional code went viral online, leading to thousands of orders within days. However, this success was built on questionable foundations - customers frequently complained about poor product quality, deceptive pricing, and lack of return policies. Within two weeks of launch, over 52,000 websites were calling the company a scam, yet the business model continued to generate substantial revenues.

By the 2014 valuation date, Mothers Lounge faced mounting challenges that threatened its viability. Amazon's growth disrupted their business model by offering superior products at better prices with transparent pricing and customer service. The company's reluctance to embrace social media and inability to adapt to changing e-commerce landscapes left

them increasingly vulnerable to competition. Additionally, they had exhausted potential products that fit their knockoff formula and had no new products in development.

Personal turmoil severely impacted the business when the petitioner's extramarital affair was exposed through blackmail, leading to an FBI investigation. This revelation devastated the marriage, destroyed employee morale, and disrupted company operations. The co-owner spouse banned the petitioner from attending trade shows, which were crucial for identifying new products and maintaining marketing partnerships. The marital breakdown created management dysfunction at a critical time for the company.

The company also faced significant legal threats, including a trademark infringement lawsuit and a more serious patent infringement case from Bebe Au Lait. The latter lawsuit challenged not only specific products but also attacked the fundamental "free, just pay shipping" business model as illegal under California law. This litigation created existential uncertainty about whether the company could continue operating in its current form. Expert witnesses presented conflicting valuations using discounted cash flow analysis. The court rejected the IRS expert's projections because they relied uncritically on a 2017 report without independent verification and failed to account for known problems facing the company. The court found the petitioner's expert more credible in forecasting declining revenues and profit margins as the company faced increased competition, technological disruption, and internal dysfunction.

The Tax Court ultimately determined that while the income approach was appropriate for valuing the business, the specific circumstances known at the valuation date supported projections of significant decline. The court applied various discounts for lack of control and marketability, rejecting some expert calculations while accepting others based on the quality of supporting analysis. The case demonstrates the importance of thorough expert analysis and consideration of all relevant factors known at the valuation date in gift tax disputes.

7. *Estate of Rowland v. Commissioner*, T.C. Memo. 2025-76 (July 15, 2025)

Billy and Fay Rowland were married Ohio residents. Fay died on April 8, 2016, followed by Billy on January 24, 2018. Fay's estate was below the federal estate tax threshold, but Billy's estate sought to use Fay's unused estate tax exclusion (the "deceased spousal unused exclusion" or "DSUE") to reduce Billy's estate tax liability through a portability election.

To claim DSUE, Fay's estate tax return had to be filed timely. The executor received an automatic extension, making the deadline July 8, 2017, but failed to file by that date. Instead, the return was mailed on December 29, 2017, and received by the IRS on January 2, 2018—nearly six months late. The executor tried to use Rev. Proc. 2017-34, an IRS safe harbor provision that would deem certain late-filed returns as timely if they met specific requirements: (1) filed by January 2, 2018 and (2) must be "complete and properly prepared".

The return failed the "complete and properly prepared" requirement in multiple ways:

- **Improper Use of Estimation:** The return estimated the gross estate value at \$3 million instead of providing specific valuations for individual assets as required by Form 706 instructions.
- **Misapplication of Special Rule:** The return incorrectly applied relaxed reporting requirements (meant only for certain marital and charitable property) to all assets in the estate.
- **Structural Issues:** Fay's trust agreement created interdependent distributions where the value of property passing to different beneficiaries affected each other, preventing the use of estimation methods.

Billy's estate argued the return provided sufficient information for the IRS to verify the DSUE amount. The Tax Court rejected this, finding the return provided only "a fraction of the detailed item-by-item value reporting required" and frustrated the IRS's ability to police DSUE elections as Congress intended.

Billy's estate also claimed the IRS should be estopped from disallowing the DSUE because the examining officer remained silent about problems with Fay's return for several months during examination. The court rejected this argument, finding no "affirmative misconduct" by the IRS—mere silence during an ongoing examination doesn't constitute wrongful conduct.

The Tax Court granted partial summary judgment for the Commissioner, holding that Fay's return was untimely filed under normal rules. The return therefore did not qualify for the Rev. Proc. 2017-34 safe harbor because it wasn't "complete and properly prepared" and as a result Billy's estate could not claim the \$3.7 million DSUE amount.

This case demonstrates the strict compliance required for DSUE elections. Even when safe harbor provisions exist, estates must carefully follow detailed reporting requirements. Estimation methods are limited to specific circumstances, and interdependent trust distributions can complicate eligibility for relaxed reporting rules. The decision reinforces that procedural requirements in tax law are not merely technical formalities but serve important substantive purposes in tax administration.