The Tax Update: 2025

Presented by: Shannon A. Laymon-Pecoraro, CELA

EAST COAST
ELDER LAW

1

One Big Beautiful Bill Act (OBBBA)

SIGNED INTO LAW: JULY 4, 2025

SIGNIFICANCE: ONE OF THE MOST COMPREHENSIVE TAX REFORMS IMPACTING ELDER LAW PRACTICE IN RECENT YEARS

KEY FUNCTION: EXTENDS AND MODIFIES TAX CUTS AND JOBS ACT (TCJA) PROVISIONS WHILE ADDING SENIOR-SPECIFIC BENEFITS

2

Senior-Specific Tax Relief Provisions

- Non-Itemizer Charitable Deduction (Starting 2026)
  - **Deduction amount:** $1,000 individual / $2,000 joint return
  - **Key advantage:** Charitable giving benefit without itemizing
  - **Planning opportunity:** Simplicity of standard deduction while supporting charitable causes
- $6,000 Senior Deduction for Itemizers
  - **Stacks with other deductions:** Works in addition to medical expense deductions
  - **No trade-offs required:** Seniors benefit from both medical and senior deductions simultaneously
  - **High-value scenario:** Particularly beneficial in years with significant healthcare costs
  - **Strategic application:** Maximizes relief for elderly clients with substantial medical expenses
  - **Tax reduction impact:** Additional deduction reduces or eliminates federal taxes on Social Security benefits
  - **Taxation relief:** Helps offset current graduated thresholds that can tax up to 85% of benefits

3

Enhanced State and Local Tax (SALT) Deduction

- **2025 cap:** $40,000 (up from $10,000)
  - **Annual increases:** Rises 1% per year through 2029
  - **2030 reversion:** Returns to $10,000 cap
  - **Key beneficiaries:** Clients in high-tax states gain meaningful relief
  - **Planning window:** Limited time period creates urgency for strategic decisions
- **Income-Based Limitations (Through 2029)**
  - **Phase-out threshold:** Begins at $500,000 modified adjusted gross income (MAGI)
  - **Reduction formula:** 30% of amount exceeding $500,000 MAGI
  - **Floor protection:** SALT deduction cannot drop below $10,000
  - **Cliff effect:** At $600,000+ MAGI, deduction locked at $10,000 minimum
  - **Target impact:** Ultra-high earners face significant limitations

4

Education Planning Enhancements

Traditional coverage: Four-year college programs (existing)

NEW: Trade schools - Skilled trades education now qualified

NEW: Professional certifications - Industry credentials and licenses covered

NEW: Post-high school credentials - Alternative career pathway programs included

Impact: Significantly expanded utility beyond traditional college planning

5

Estate and Gift Tax Transformations

- **Permanent Exemption Framework**
  - **New permanent amount:** $15 million per individual
  - **No sunset provision:** Increase is permanent
  - **Inflation indexing:** Continues using 2025 as base year
  - **Legislative certainty:** Eliminates cliff effect that dominated planning since TCJA
    - **Deadline eliminated:** No more December 31, 2025 pressure
- **Enhanced Planning Capacity**
- **Strategic Opportunities**

6

Income Tax Planning Considerations

- TCJA Provisions Extended Through 2034
  - Individual tax rates: Lower rate structure maintained, including 37% top rate
  - Enhanced standard deductions: Continued higher deduction amounts
  - Child Tax Credit expansion: Relevant for grandparents raising grandchildren
  - Section 199A deduction: 20% qualified business income deduction preserved
- Retirement Distribution Planning
- Business Succession Planning Benefits
- Working Senior Benefits
  - Tip income: Federal tax elimination on tips
  - Overtime pay: Tax-free overtime compensation
  - Target demographic: Seniors in service industries or consulting roles

7

FinCEN Update to Corporate Transparency Act

- Key decision: No penalties or fines enforced against U.S. citizens or domestic companies
  - Practical impact: U.S. companies effectively exempt from compliance
- FinCEN Interim Final Rule
  - "Reporting company" redefined: Only entities formed under foreign country law
  - Geographic trigger: Must be registered to do business in U.S. state or tribal jurisdiction
  - U.S. companies: No longer required to report beneficial ownership information
  - U.S. persons: Reporting requirements removed
  - Foreign companies: Obligations maintained for those operating in U.S.

8

Private Letter Ruling 202507005

- Transaction
  - Form new corporation ("Controlled") with identical capital structure and transfer all Business B assets to Controlled for 100% of its stock
  - Distribute Controlled stock pro rata to Distributing shareholders and Shareholders receive corresponding classes in both entities
- Key Taxpayer Representations
  - Both businesses actively operated for 5+ years
  - Continuing transactions at fair market value
  - Independent operations (except one transitional employee)Section 355(d) stock ownership requirements satisfied
- IRS Rulings
  - Tax-free reorganization under IRC Section 368(a)(1)(D)
  - No gain or loss to corporations or shareholders
- IRS explicitly did NOT rule on a few issues

9

- **Facts**
  - Mary Bolles made payments to son Peter from 1985-2007
  - Peter operated father's struggling architecture practice
  - Estate claimed payments were loans; IRS argued gifts
- **Tax Court Ruling (Affirmed by Ninth Circuit)**
  - 1985-1989: LOANS
    - Genuine creditor-debtor relationship existed
    - Reasonable expectation of repayment
  - 1990-2007: GIFTS
    - No repayments made during entire period
    - Peter excluded from Mary's trust (1989)
    - Peter signed agreement acknowledging inability to repay
- **Takeaway:** Changed circumstances can transform intrafamily loans into taxable gifts. Courts will analyze different time periods separately based on the facts and relationship dynamics of each period.

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

10

- **Key Facts**
  - July 2014: Dr. Larry Becker created irrevocable life insurance trust
  - Death benefits: ~$20M on two life insurance policies
  - Complex funding: Chain of loans through broker and third parties for initial premiums
  - Premium financing: LT Funding paid future premiums for 75% of death benefits + 6% interest.
  - January 2016: Dr. Becker died unexpectedly; policies paid ~$19.5MIRS
- **Tax Court Ruling:**
  - Issued for trust beneficiaries (wife and descendants) who had insurable interests so no state law violation
  - Validly issued policies remain legal even when assigned to parties without insurable interests
  - No estate inclusion: Death benefits properly excluded from gross estate
- **Key Takeaway:** Life insurance policies held in irrevocable trusts are valid for estate tax purposes if originally issued to beneficiaries with insurable interests, even if subsequently assigned to premium financing companies lacking insurable interests.

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

11

- **Key Facts**
  - Anne Fields: Successful Texas businesswoman with Alzheimer's dementia (diagnosed 2011)
  - May 20, 2016: Great-nephew Bryan Milner (using POA) created LLC and LP
    - Transferred ~$17M (most of her wealth) to partnership for 99.9941% limited partner interest
  - June 23, 2016: Ms. Fields died (33 days after transfers)Estate reported discounted value of $10.8M instead of $17M
- **Tax Court Ruling:** Section 2036(a) Applied - Ms. Fields retained income rights and enjoyment of transferred assets
  - Agent had absolute discretion over distributions (and made them)
  - Not a bona fide sale - transfers were testamentary, designed to reduce estate taxes
  - Consequences- Included in gross estate: $17,062,631 (full asset value) with 20% accuracy penalty under Section 6662 for negligence
- **Key Takeaway:** Deathbed transfers to family limited partnerships during precipitous health decline, lacking legitimate non-tax business purposes and contemporaneous documentation, will be recharacterized as testamentary transfers under Section 2036(a).

Estate of Fields v. Commissioner, T.C. Memo 2024-90 (Nov. 4, 20204)

12

- **Key Facts**
  - William Rhodes III (former AutoZone CEO) established GRAT holding AutoZone stock
  - GRAT distributed shares to Rhodes as required annuity payments
  - Rhodes sold shares within 6 months for ~$1M profit
  - Plaintiff claimed Section 16(b) violation requiring disgorgement
- **Court Ruling:** GRAT annuity distributions qualify for Rule 16a-13 exemption
  - Economic substance controls over form
  - Rhodes' beneficial interest remained constant (indirect → direct ownership)
  - No change in pecuniary interest in underlying securities
- **Key Takeaway:** GRAT annuity payments of company stock to corporate insiders are not "acquisitions" under Section 16(b) when the beneficiary's economic interest remains unchanged—merely converting indirect interest to direct ownership without altering exposure.

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

13

- **Key Facts**
  - 2013: Barbara Galli (age 79) transferred $2.3M to son Stephen via promissory note
  - Loan terms: 9-year term, 1.01% interest (matched IRS applicable federal rate for Feb 2013)
  - Performance: Stephen made all required annual interest payments
  - 2016: Barbara died; unpaid balance included on estate tax returnNo gift tax return filed (treated as legitimate loan)
- **Tax Court Ruling:** Insufficient evidence to support gift recharacterization
  - IRC § 7872 controls: Provides comprehensive treatment of below-market loans and displaces traditional FMV analysis
  - Not below-market loan: Charging AFR = legitimate loan, not gift
  - Both cases resolved: No gift tax deficiency; estate tax treatment proper
- **Key Takeaway:** Intrafamily loans charging the IRS applicable federal rate are respected as legitimate loans under IRC § 7872, not gifts requiring recharacterization, when properly documented and performed.

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

14

- **Key Facts**
  - 2014 transactions: Petitioner and ex-wife each gifted 29.4% interests in Mother's Lounge, LLC to trusts and sold 20.6% interests to LLC
  - IRS challenge: Reported valuations too high; imposed deficiencies and penalties
  - Business Model Issues
    - Expert Valuation Battle
- **Tax Court Ruling:** Income approach appropriate for valuation
  - Circumstances at valuation date supported projections of significant decline
  - Applied various discounts for lack of control and marketability
  - Accepted expert calculations based on quality of supporting analysis
- **Key Takeaway:** Gift tax valuations must thoroughly consider all circumstances known at the valuation date, including business model vulnerabilities, competitive threats, internal dysfunction, and pending litigation that could fundamentally undermine the enterprise's viability.

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

15

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

- Key Facts
  - Fay Rowland died: April 8, 2016 (estate below federal threshold)
  - Billy Rowland died: January 24, 2018
  - Billy's estate: Sought to use Fay's unused estate tax exclusion (DSUE) via portability election
    - Fay's estate tax return due: July 8, 2017 (with extension)
    - Actual filing: Mailed December 29, 2017; received January 2, 2018 (nearly 6 months late)
- **Tax Court Ruling:**
  - IRS Return untimely filed under normal rules
    - Failed Rev. Proc. 2017-34 safe harbor (not "complete and properly prepared")
  - Billy's estate CANNOT claim $3.7M DSUE
    - Rejected estoppel argument: IRS silence during examination not "affirmative misconduct"
- **Key Takeaway:** DSUE portability elections require strict compliance with detailed reporting requirements. Estimation methods are limited to specific circumstances, and safe harbor provisions don't excuse incomplete or improperly prepared returns—even when filed within safe harbor deadlines.

16

Elcan v. Commissioner, Tax Court Docket No. 3405-25 (Petition filed March 14, 2025)

- **Key Facts**
  - IRS assessed $736M+ in deficiencies for gift tax and penalties against couple who created three GRATs in 2018
  - Substitution transactions: Grantors exchanged $687.5M in S corp stock and partnership units for promissory notes (Prime + 1%)
  - IRS position: Using grantor notes to satisfy annuity payments causes entire GRAT contribution to become taxable gift
    - Claim: Retained annuity interests were not "qualified interests" under §2702Taxpayer Arguments
- **Taxpayer Argument**
  - Statutory compliance: Annuities meet clear §2702(b) definition (fixed amounts paid annually)
  - Loper Bright challenge: Additional regulatory requirements invalid—regulations cannot override unambiguous statute
  - No violation: GRATs distributed existing assets (grantor's notes), didn't "issue" notes to satisfy payments
  - Timing matters: Post-funding events cannot change gift values determined at GRAT creation under §2512
- **Broader Implications**
  - Part of broader effort targeting GRAT valuations and substitution transactions
  - Substitutions used routinely for tax payments, asset protection, and re-GRATing
  - Practitioners advising clients of IRS position while many continue to view substitutions as permissible

17