

Planning Ideas Worth Stealing

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Our Agenda

- Planning in Light of OB3 Developments
 - *Charitable Contributions*
 - *Personal SALT Deduction Cap*
- Building an estate plan for married couples that withstands future changes in the tax laws
- Other fun planning ideas
 - *Charitable trusts as retirement plan beneficiaries*
 - *Maximizing the step-up in basis*

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				
\$48,475	\$96,950	22%			
\$103,350	\$206,700	24%			
\$197,300	AGI over \$250,000	32%			
AGI over \$200,000	\$394,600				
\$250,525	\$501,050	35%	20%	3.8%	3.8%
\$533,400	\$600,050				
\$626,350	\$751,600	37%			

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	35%		
\$15,650	37%		
\$15,900		20%	3.8%



Federal Wealth Transfer Tax Basic Exclusion Amount

Date of death	Basic exclusion amount	Date of death	Basic exclusion amount
2011	\$5,000,000	2019	\$11,400,000
2012	\$5,120,000	2020	\$11,580,000
2013	\$5,250,000	2021	\$11,700,000
2014	\$5,340,000	2022	\$12,060,000
2015	\$5,430,000	2023	\$12,920,000
2016	\$5,450,000	2024	\$13,610,000
2017	\$5,490,000	2025	\$13,990,000
2018	\$11,180,000	2026	\$15,000,000

Understanding the OB3 Act Charitable Contributions



- **Non-itemizers** can deduct up to **\$1,000 in cash contributions** starting in 2026 (\$2,000 for joint filers)
- Can still deduct **cash contributions** up to **60% of contribution base** (adjusted gross income)
- **0.5% floor** on donations by **individuals**, starting in 2026, with disallowed amounts carrying over up to 5 years

Understanding the OB3 Act

Overall Limit on Itemized Deductions

- New §68 starts in 2026
- Reduces total itemized deductions by lesser of:
 - 2/37 of total itemized deductions, or
 - 2/37 of the amount by which (taxable income + total itemized deductions) exceeds 37% bracket threshold
- Applies to individuals and trusts



Understanding the OB3 Act

Example of 2026 Charitable Contribution

- T, an individual with a 2026 adjusted gross income of \$1,000,000, donates \$105,000 to charity. This is T's only itemized deduction for 2026. Assume the 37% tax bracket for individuals in 2026 starts when taxable income exceeds \$650,000.

- Apply §170(b)(1)(I) 0.5% floor:

Contribution	\$105,000
0.5% of \$1,000,000 contribution base	<u>(\$5,000)</u>
Deduction amount	\$100,000

- Apply §68 overall limit on itemized deductions

Lesser of –

(1) 2/37 of \$100,000 itemized deductions	\$5,405
or (2) 2/37 of \$350,000 excess of AGI over \$650,000 threshold	vs. \$18,519

Deduction thus reduced to \$100,000 - \$5,405 = **\$94,595 total deduction**



**DO THE
MATH**

There's still a
cap on the
deduction for

STATE
AND
LOCAL
TTAXES



Understanding the OB3 Act

Deduction for Personal SALT



Deduction limit temporarily increased

Year	Personal SALT Deduction Cap
2025	\$40,000
2026	\$40,400
2027	\$40,804
2028	\$41,212
2029	\$41,624
2030 and later	\$10,000

Limit reduced by 30% of
(AGI – “threshold amount”)

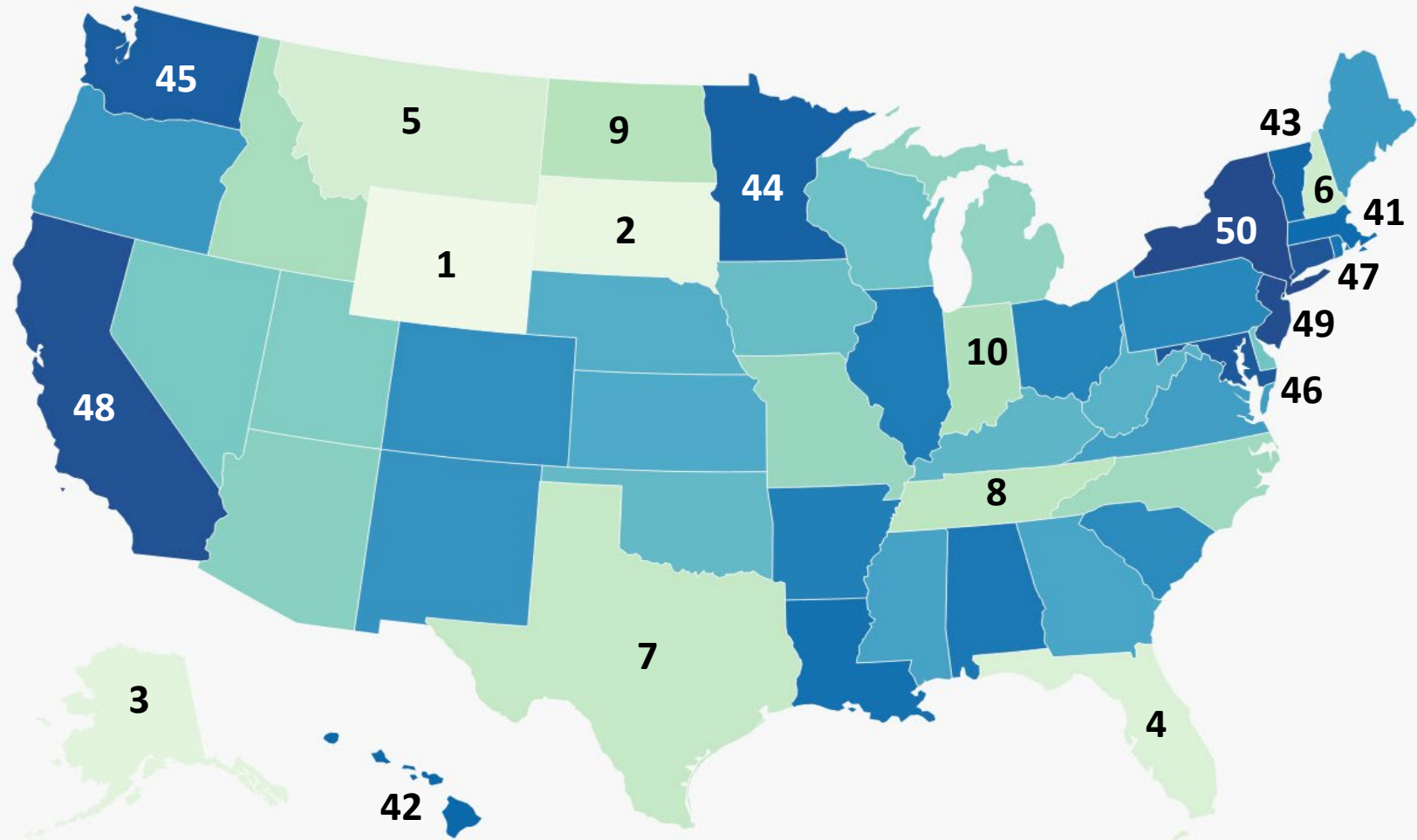
(\$10,000 minimum)

Year	“Threshold Amount”
2025	\$500,000
2026	\$505,000
2027	\$510,050
2028	\$515,151
2029	\$520,302

Planning for the SALT cap

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

2025 State Tax Competitiveness Index



Note: A rank of 1 is best, 50 is worst. Rankings do not average to the total. States without a tax rank equally as 1. DC's score and rank do not affect other states. The report shows tax systems as of July 1, 2024 (the beginning of Fiscal Year 2025).

Source: Tax Foundation

Estate Planning Templates for Married Couples



PLANNING PARADIGMS FOR MARRIED COUPLES



BUCKET ONE
Up to \$15 million



BUCKET TWO
\$15 - \$30 million



BUCKET THREE
\$30+ million

PLANNING PARADIGMS FOR MARRIED COUPLES



BUCKET ONE
Up to \$15 million

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

PLANNING PARADIGMS FOR MARRIED COUPLES



BUCKET TWO
\$15- \$30 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

PLANNING PARADIGMS FOR MARRIED COUPLES



BUCKET THREE
\$30+ million

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

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

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



Other Ideas for Planning in the Current Climate

- Charitable remainder trusts for retirement plans
- Maximizing the “step up” in basis

Charitable Remainder Trusts for Retirement Plans



Replaced life expectancy payout with **10-year payout** for all EXCEPT for “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:
Setting
Every
Community
Up for
Retirement
Enhancement
Act

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!



Ideas for Maximizing Stepped-Up Basis

- Exercise of grantor trust swap power near death
- Give trust beneficiaries narrow general power of appointment
- Upstream sales
- Establish trust in community property state





***Thanks
for Listening***