

2025 Federal Tax Law Highlights For Fiduciaries

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Anna Katherine (AK) Moody works directly with clients and their families to address all aspects of family wealth transfer, business succession, philanthropy, and income tax, estate tax, gift tax and generation-skipping tax planning. Prior to joining BNY Wealth, AK was a partner in the private wealth practice group of a large national law firm.

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Emily Plocki's practice focuses primarily on assisting high-net-worth individuals, multigenerational families, and owners of family corporations, both domestically and internationally, with tax planning and wealth preservation. Emily handles a variety of matters, including estate, gift, and generation-skipping transfer tax planning, trust and estate administration, planned charitable giving, and business succession strategies.

Emily earned her L.L.M. in Taxation, *with distinction*, from Georgetown University Law Center, where she was note-writing mentor for *The Tax Lawyer Journal*. She received her J.D., *cum laude*, from the University of Toledo College of Law and has a B.A. from Kenyon College.

Emily is a Fellow of The American College of Trust and Estate Counsel (ACTEC). Emily is a current Board Member of the Washington, D.C. Estate Planning Council and Group Chair of the ABA Real Property, Trust and Estate (RPTE) Section's Business Planning Group. She previously was a 2018-2020 RPTE Estate Fellow and a 2020-2022 Dennis I. Belcher ACTETC Young Leader.

Introduction & Overview

AGENDA

- I. Overview of One Big Beautiful Bill Act (OBBBA) Legislative History
- II. Discussion of Tax Law Changes Contained in the OBBBA:
 - a) Estate, Gift, and GST Changes & Review of State Tax and Domicile Considerations
 - b) Income Taxation of Trusts and Estates Updates
 - c) Qualified Small Business Stock (QSBS) Rule Updates
 - d) Qualified Opportunity Zone (QOZ) Fund Updates
 - e) Charitable Deduction Updates
- III. Review of Notable 2025 Case Law
- IV. Planning Playbook and Takeaways

Legislative History of the One Big Beautiful Bill Act (OBBBB)

OBBBA Legislative History

April 2025: Budget resolution adopted by both the House of Representatives and Senate

May 9, 2025: House Ways and Means Committee released the first tranche of its tax package (*Make American Families and Workers Thrive Again Act*) which included extensions of expiring Tax Cuts and Jobs Act (TJCA) provisions

May 12, 2025: House Ways and Means Committee released a more robust second tranche of its tax package (*One Big Beautiful Bill Act (OBBBA)*)

May 13/14, 2025: House Ways and Means Committee advanced OBBBA to the House Budget Committee after a 17-hour legislative markup

May 22, 2025: By a vote of 218-214, House passed OBBBA and sends it to the Senate for consideration

June 16, 2025: Senate Finance Committee released its amended version of the House-passed OBBBA

June 27, 2025: Amended bill sent to the Senate floor for consideration

July 1, 2025: By a vote of 51-50, Senate approved the amended bill and sends it back to the House of Representatives for final approval

July 3, 2025: By a vote of 218-214, House of Representatives approved the Senate-passed OBBBA

July 4, 2025: President Trump signed OBBBA into law

OBBBA: Estate, Gift, & GST Updates

Summary of Changes

Extension of Increased Transfer Tax Exemptions and Permanent Enhancement

- Increased the Federal estate and gift tax unified credit basic exclusion amount to \$15 million per person in 2026 (then adjusted for inflation in 2027 and subsequent years).
- Increased the Federal generation-skipping transfer (GST) tax exemption amount to \$15 million per person in 2026 (then adjusted for inflation in 2027 and subsequent years).
- Effective for estates of decedents dying, and gifts made after, December 31, 2025.
- There is no expiration date on the new \$15 million exemption amounts under the Act.

529 Plan Account Updates

- K-12 expanded coverage:
 - Expanded definition of “qualified educational expenses”
 - Increased K-12 expense limit (from \$10,000 to \$20,000 starting in 2026)
- Expanded postsecondary qualifying credentialing expense coverage
- Removal of the sunset date for rollovers from 529 account to ABLE accounts

What Stayed The Same

The Federal estate, gift, and GST regimes otherwise remain largely unchanged by the Act:

- The highest federal marginal estate, gift, and GST tax rates will continue to be 40%.
- Any unused estate/gift exemption will continue to be “portable” to the decedent’s surviving spouse (and no portability is available for the GST tax exemption).
- Federal gift tax annual exclusion amount remains unchanged (\$19,000 in 2025).
- Ed/Med Gift Exclusion Still Allowed.
- Gifts from one spouse to another are exempt from gift tax (as long as recipient spouse is a U.S. citizen or resident).
- Note: Gifts made to a non-U.S. citizen or resident spouse are still restricted to an annual exclusion amount (\$190,000 in 2025).

Planning Considerations

Impact on holistic estate planning for clients:

- State Tax Overlays
 - Effect or non-effect on state-level estate tax exemptions
 - Domicile Review
 - State-level portability and QTIP election considerations
- Fewer Federally taxable estates under new Act.
 - Makes basis planning a primary focus

OBBBA: Updates to the Income Taxation of Trusts and Estates

Compressed Tax Rate Brackets

The OBBBA made permanent the TCJA compressed rate brackets, which were set to expire on 12/31/25.

- The brackets are: 10%, 12%, 22%, 24%, 32%, 35%, 37%
- OBBB adds an additional year of inflation adjustment to ensure more income remains in the lower brackets over time.
- 2026 Tax Rate tables have not yet been released.

If 2025 Taxable Income Is:	The 2025 Tax Is:
Not over \$3,150	10%
Over \$3,150 but not over \$11,450	\$315 plus 24% of the excess over \$3150
Over \$11,450 but not over \$15,650	\$2,307 plus 35% of the excess over \$11,450
Over \$15,650	\$3,777 plus 37% of the excess over \$15,650

Itemized Deductions and the 2/37th Limitation

OBBBA affects itemized deductions for trusts and estates

- OBBBA made permanent the disallowance of miscellaneous itemized deductions under IRC §67 for individuals and estates and trusts enacted under TCJA.
 - Itemized deductions are limited to those enumerated in IRC §67(b).
- IRC §67(e) related to itemized deductions specific to estates and trusts are still able to be deducted.
- IRC §68 limits itemized deductions for high-income taxpayers.
 - OBBBA has changed the limitation under IRC §68 from 3% (the "Pease limitation") to the "2/37th" limitation.
 - Under the new rule, allowable itemized deductions are reduced by 2/37 of the lesser of: 1) total itemized deductions or 2) the amount of taxable income exceeding the threshold for the 37% tax bracket.
- IRC §68(e) specifically exempted estates and trusts from this limitation.
- **OBBBA has repealed IRC §68(e), so that IRC §68 now applies to the deductibility of itemized deductions for estates and trusts.**

State and Local Tax (SALT) Deduction

- Under TCJA, the SALT deduction was capped at \$10,000 for estates and trusts. The cap was set to expire after Dec. 31, 2025, after which state and local taxes would have been fully deductible again.
- As enacted in OBBBA, the SALT cap deduction for estates and trusts is temporarily increased to \$40,000, with annual inflation adjustments through 2029.
 - The cap rises to \$40,400 in 2026 and continues increasing by 1% each year before dropping back to \$10,000 in 2030.
- For high earners, the expanded cap phases down. Taxpayers with modified adjusted gross income (MAGI) over \$500,000 will see their cap reduced by 30% of the amount their MAGI exceeds the threshold, until it returns to \$10,000.
 - The income threshold will also be adjusted for inflation through 2029.
- Planning considerations:
 - Multiple nongrantor trusts
 - Income shifting to beneficiaries
 - PTET reliance for trusts owning businesses

OBBBA: QSBS Rule Updates

Expansion of Qualified Small Business Stock (QSBS) Gain Exclusion

I. The holding period for QSBS is now graduated for stock acquired after July 4, 2025:

- QSBS held for at least 3 years will be eligible for 50% exclusion of taxable gain;
- QSBS held for at least 4 years will be eligible for 75% exclusion of taxable gain; and
- QSBS held for at least 5 years will be eligible for 100% exclusion of taxable gain.

II. The exclusion amount is increased from \$10 million to \$15 million with a yearly inflation-based adjustment.

III. The limit on “aggregate gross assets” has been increased from \$50 million to \$75 million.

OBBBA: Qualified Opportunity Zone (QOZ) Fund Updates

QOZs Under TCJA

The Opportunity Zone (OZ) program initiated under TCJA offers three key tax benefits for investors who reinvest capital gains into a Qualified Opportunity Fund (QOF):

1. It provides a temporary deferral of taxes on rolled-over non-QOZ gains into a QOF until 2026 or until the QOF investment is sold, whichever comes first.
2. It allows a step-up in basis on the deferred gains that are invested in a QOF –10% for investments held at least five years and an additionally 5% (totaling 15%) for those held seven years.
3. Gains from the appreciation of the QOF investment itself are permanently excluded from taxable income if the investment is held for at least 10 years.

These benefits for the initial OZ round are scheduled to expire after Dec. 31, 2026, with the designated OZs expiring after Dec. 31, 2028.

QOZ Updates Under OBBBA

Make the OZ program permanent, with rolling ten-year QOZ designations and revised eligibility criteria and new reporting requirements.

New rolling 10-year designations:

- Beginning July 1, 2026 (the initial “decennial designation date”), governors will designate new QOZs.
- Each designation lasts 10 years (e.g., Jan 1, 2027- Dec. 31, 2036).
- New zones will be designated every 10 years (e.g., next cycle 2037-2046).

Updated eligibility rules:

- Narrows the definition of a low-income community for QOZ designation.
- Eliminates the special designation benefits for Puerto Rico.

QOZ Updates Under OBBBA (cont.)

Tax Incentives under the new QOZ structure:

- Gains invested before Jan. 1, 2027 are still recognized on Dec. 31, 2026—that date has not changed.
- Gains invested on or after Jan. 1, 2027 are deferred until the earlier of 1) the date of disposition, or 2) five years after the investment date.
- A 10% basis increase applies to investments held at least five years, taxing only 90% of the deferred gain.
- For investments in qualified rural opportunity funds, 30% of the deferred gain is added to basis.
- Investments held for 10-30 years continue to receive full tax exclusion on post-investment appreciation.

New reporting and compliance requirements:

- Enhanced tax return and information reporting for both new and existing QOFs and OZ businesses.
- Increased penalties for noncompliance.
- Some implementation details remain unclear, particularly regarding how existing OZ businesses will be treated once their zone's designation expires.

OBBBA: Charitable Deduction Updates

Changes to Charitable Contribution Rules

I. Permanent and Expanded Reinstatement of Partial Deduction for Charitable Contributions of Individuals who do not elect to itemize (non-itemizers).

- Starting in 2026, taxpayers can claim a deduction of up to \$1,000 (\$2,000 for those who are married filing jointly) for cash contributions to public charities.
- Charitable contribution carryforwards also do not qualify.

II. New 0.5% adjusted gross income (AGI) floor for charitable deduction eligibility (itemizers).

- Starting in 2026, taxpayers who itemize will be limited to charitable deductions that exceed 0.5% of the taxpayer's AGI.
- New floor applies to both cash and non-cash contributions.
- Contributions disallowed by the new floor do qualify for carryforward only from years in which the 0.5% limitation is exceeded.
 - Note: OBBBA also enacted a parallel 1% floor for charitable contribution deductions for corporations starting in 2026 and subsequent years.

III. Permanence of TCJA cash contribution deduction increase.

Subject to certain limitations, OBBBA now permanently extends the increased contribution limitation (60%) for cash gifts made to qualified charities.

Review of Notable 2025 Case Law

Estate of Galli v. Comm’r Docket Nos. 7003-20, 7005-20

(March 5, 2025)

Facts: Barbara Galli (decedent) died in 2016. In 2013, she entered into a transaction to loan her son \$2.3 million. The loan documentation stated that the term of the loan was not to exceed 9 years and the interest rate was set at 1.01% (the mid-term applicable federal rate at the time the transaction was made). No gift tax return was filed because the decedent considered this transaction a loan, not a gift. When decedent died, the unpaid portion of the loan was reported on her estate tax return. Upon review of decedent’s estate tax return, the IRS issued notices of deficiency for nonpayment of gift tax and underpayment of estate tax. The IRS alleged that the transaction was a partial gift, either because too low of an interest rate was charged or because the reported value on the estate tax return was an admission that the 2013 transaction was a partial gift. However, the IRS did not provide any supporting evidence to support its allegations, other than the fact that decedent did not file a gift tax return. Son, by contrast, submitted a copy of his mom's bank record showing a transfer of \$2.3 million, the promissory note they both signed, his own bank records that show he paid interest to his mom each year, and even his mom’s income-tax returns that show she reported it as interest income.

Legal Analysis: The characterization of a transfer of money as a loan is a multiprong test. The IRS concedes that at least some of the transfer was indeed a loan. The next question is whether the loan was a below-market loan under Section 7872. The decedent’s loan charged the appropriate applicable federal rate in effect at the time the transaction was entered into. The Tax Court noted that they have rejected the question as to whether to recharacterize a loan as a partial gift if it carried an interest rate below market but equal to or above the AFR in prior

Estate of Galli v. Comm’r Docket Nos. 7003-20, 7005-20

(March 5, 2025)

Holding: The court determined that the transaction was not a gift in its entirety and, applying IRC section 7872, determined that the transaction was not a gift at all.

Takeaway: Appropriately documenting intrafamily loans and selecting the appropriate interest rate is crucial to defending against a recharacterization of the loan as a partial gift. It was crucial that correct AFR was selected for the loan’s interest rate. Further, the son had evidence of the promissory contemporaneous with its execution as well as loan payments. This documentation easily rebutted statements in the notices of deficiency alleging that there was no intent of repayment between the parties at the time the gift was made.

Pierce v. Comm’r, T.C. Memo 2025-29

(April 9, 2025)

Facts: In 2014, petitioner and his now ex-wife (Ms. Bosco) each gave a 29.4% interest in their business Mothers Lounge, LLC (Mothers Lounge), a company in the business of selling knockoff baby and maternity gear and steeply discounted prices, to two irrevocable trusts and sold a 20.6% interest in Mothers Lounge to a limited liability company owned by the irrevocable trusts. 709s were timely filed reporting the gifts, but not the sales. The returns were selected for audit in 2016, and the IRS issued a notice of deficiency in 2018. The issue turned on the company valuation relied on to calculate the gifts and the sales price for the interests sold.

Legal Analysis: This case became a war of the expert witnesses. While the taxpayer’s expert and the IRS’ expert both agreed that the discounted cashflow method with tax affecting was appropriate to value the LLC interests that were gifted and sold, there were stark differences between the experts on the proper discount rate to apply to calculate the present value of the cashflow, the terminal value of the enterprise, and the proper discounts to apply for lack of marketability and lack of control.

Holding: The forecasts accepted by the Tax Court represented some from the taxpayer’s expert and some from the IRS’ expert.

Takeaway: The Tax Court focused on each expert’s credibility and independence, as well as proper justification for each forecast made. The IRS’ expert’s credibility was greatly discounted due to his reliance on an earlier valuation prepared by the taxpayer’s expert without independently verifying such valuation report’s conclusions. The Tax Court also noted that tax affecting was appropriate in this case, but is not appropriate in many other cases.

Estate of Griffin v. Comm'r, T.C. Memo 2025-47

(May 19, 2025)

Facts: Upon decedent's death, decedent's revocable trust provided a \$2 million bequest to a trust for the benefit of the surviving spouse. Surviving spouse was entitled to receive up to \$9,000 per month (adjusted for inflation) from this trust. At spouse's death, she had a limited power of appointment (LPOA) to appoint balance of trust property to a class of beneficiaries limited to her descendants, or, in default of her exercising her LPOA, property would be distributed to the spouse's then-living descendants. Decedent's revocable trust also made a separate \$300,000 bequest to the same trust. Of that \$300,000, the spouse was to receive \$60,000 per year and any undistributed balance was to be included in the spouse's estate. The executor filed a Form 706, but did not make a QTIP election on the \$2.3 million total bequests. IRS issued a notice of deficiency, taking the position that both the \$2 million and the \$300,000 bequests did not qualify for the estate tax marital deduction.

Legal Analysis: In general, property passing from one spouse to another at death will qualify for an unlimited estate tax marital deduction. However, a terminable interest (i.e., one that passes from the decedent to the spouse, but that will end upon the lapse of time or occurrence of a specified event) does not typically qualify for the estate tax marital deduction. An exception to this rule is property passing to a Qualified Terminable Interest Property ("QTIP") trust under IRC Section 2056(b)(7). This requires that (i) the property must pass from the decedent, (ii) the spouse must have a qualifying income interest in the property for life, and (iii) the executor must make an affirmative election to designate the property as QTIP property.

Estate of Griffin v. Comm'r, T.C. Memo 2025-47

(May 19, 2025)

Holding: The executor failed to make an affirmative QTIP election on the decedent's 706 for the \$2 million bequest, and therefore, such property, as a terminable interest, does not meet the requirements of the QTIP transfer under IRC Section 2056(b)(7) and does not qualify for the estate tax marital deduction. The executor failed to make an affirmative QTIP election on the decedent's 706 for the \$300,000 bequest. However, under the state law governing the decedent's revocable trust, this bequest is not considered a terminable interest because the bequest creates a separate trust and directs that the interest is either paid to the spouse during lifetime or becomes a part of her estate upon her death if any amount of the bequest is undistributed. Therefore, even though no QTIP election was affirmatively made, this bequest does qualify for the estate tax marital deduction.

Takeaway: An affirmative QTIP election is critical. Even though the \$300,000 ultimately qualified for the marital deduction without the QTIP election, it took jumping through many state-law specific hoops to get there.

Estate of Rowland v. Comm’r, T.C. Memo 2025-76

(July 15, 2025)

Facts: Decedent died in 2018 and was preceded in death by his wife, who passed away two years earlier on April 8, 2016. Wife’s estate was under the estate tax return filing threshold. Decedent’s estate sought to use wife’s DSUE (deceased spousal unused exclusion) to reduce the decedent’s taxable estate. An estate tax return for wife’s estate was not timely filed, but when it was finally filed on December 29, 2017, it displayed “Filed Pursuant to Rev Proc 2017-34 to Elect Port Sec 2010(c)(5)(A)” at the top. Wife’s estate tax return reported DSUE in the amount of \$3,712,562, but did not itemize and report a value for specific assets and merely listed a gross estate estimate of \$3 million. Decedent’s estate tax return was timely filed and reported estate tax due in the amount of \$4,477,555, as a result of taking into account wife’s DSUE. The IRS issued a notice of deficiency noting that the portability election for wife’s estate was not properly made because wife’s estate tax return merely estimated the gross value of wife’s estate and did not itemize and report a value of property passing to beneficiaries.

Legal Analysis: Section 2010(c)(5)(A) provides that a DSUE amount may not be claimed by a surviving spouse unless (1) the executor of the estate of the deceased spouse files an estate tax return on which such amount is computed, (2) that executor makes an election on the deceased spouse’s estate tax return, and (3) such return is timely filed. While wife’s estate tax return was not timely filed under Section 2010, the IRS has offered an additional safe harbor pursuant to Rev. Proc. 2017-34, provided that a “complete and properly prepared” estate tax return is filed before the later of 1/2/18 or the second anniversary of the decedent’s death. The issue here turns on whether wife’s estate tax return was complete and properly prepared. Typically, the estate tax return requires a listing of properties that fit within the subject matter of the return’s various schedules, along with each property’s date of death valuation. Treas. Reg. Section 20.2010-2(a)(7)(ii) does provide an exception to this reporting in the case of marital or charitable deduction property where the estate is not otherwise required to file a return. However, the relaxed reporting for marital and charitable deduction property is not applicable if such reporting is required to determine whether the reporting for the nondeduction property has been calculated correctly.

Estate of Rowland v. Comm'r, T.C. Memo 2025-76

(July 15, 2025)

Holding: In the instant case, the wife's estate tax return made no attempt to identify and distinguish marital and charitable deduction property and applies a relaxed reporting treatment across the board. As wife's estate tax return contained property that did not pass to decedent or to charity, wife's estate tax return failed to satisfy the 706 preparation instructions and was thus "not complete or properly prepared". Therefore, wife's estate tax return did not satisfy the safe harbor under Rev. Proc. 2017-34 and wife's DSUE was not properly ported to decedent.

Takeaway: The simplified reporting rules are very narrow. Rev. Proc. 2017-34 has now been replaced by Rev. Proc. 2022-32 and requires that for late portability relief, the executor must file a "complete and properly prepared Form 706" by the fifth anniversary of the decedent's death.

In the Matter of the CES 2007 Trust (Del. Ch. 2025)

(May 2, 2025)

Facts: Creditor sued grantor for money loaned to grantor related to a business deal in 2014. In 2019, a Circuit Court in Michigan entered a judgment in favor of creditor against grantor and later entered motion enjoining grantor from transferring assets outside of the normal course of business. Grantor alleges that he has no assets available to satisfy the judgment. Grantor created a Delaware trust in 2007, predating the loan in question. The trust named a corporate fiduciary as the trustee, but grantor retained powers as an investment advisor and grantor's brother could remove and replace the trustee. Grantor was expressly barred in the trust agreement from serving as trustee. The Trustee retained full discretion to distribute income and principal to the beneficiaries, who were limited to grantor's wife, parents and living issue. The trust included a spendthrift provision, which the creditor asked the Delaware Chancery court to invalidate. The trust assets consist of three Delaware LLCs, which are managed by grantor and which own underlying real property located outside of Delaware. Creditor petitioned the Delaware Chancery Court and sought to invalidate the transfer of the LLC properties to the trust, or, in the alternative, to invalidate the trust.

Legal Analysis: In 1997, Delaware codified the ability to create Delaware self-settled asset protection, or qualified disposition, trusts (Asset Protection Trusts). The Qualified Dispositions in Trust Act (the "Act") permits someone to create an Asset Protection Trust, and irrevocably transfer assets to the trust, to protect those assets from claims against the grantor/former owner. For assets to be protected, however, the transfer must be a "qualified disposition" to a "qualified trustee." The trust agreement must also invoke Delaware law, include a spendthrift provision, and be irrevocable.

In the Matter of the CES 2007 Trust (Del. Ch. 2025)

(May 2, 2025)

Holding: The Court determined that the CES 2007 Trust satisfied each of the requirements to be considered an asset protection trust under the Delaware statute. Further the Court did not entertain the creditor's argument that certain transfers of real estate in and out of the LLCs would invalidate the trust, noting that the trust does not own a direct interest in the real estate but owns an interest in the LLCs. The LLC membership interests remain unchanged and to look to the underlying real estate transfers would be to disregard the business entities under Delaware's LLC Act.

Takeaway: The Court placed emphasis on the trust being formed prior to the time that the debt arose, so being mindful of fraudulent conveyances and existing debts is crucial. This case also adds to the canon of Delaware courts upholding spendthrift provisions for properly structured Delaware asset protection trusts, even from out-of-state judgments. The Court focused on the structure's compliance with the applicable Delaware trust and LLC statutes, emphasizing the importance of adhering to the structural formalities when designing an asset protection trust.

Nosirrah Management, LLC v. AutoZone, Inc.

(W.D. Tenn. April 14, 2025)

Facts: Plaintiff is a shareholder of AutoZone. Defendant, Rhodes, was Chairman, President, CEO, and director of AutoZone during the time of the GRAT (Grantor Retained Annuity Trust) transaction at issue. Rhodes (Grantor) created two GRATs in 2020, both of which had two-year terms. Grantor's children were named as the GRAT remaindermen. Grantor retained a substitution power over both GRATs, as described in IRC Section 675(4)(C). In 2022, Grantor received annuity payments in the form of in-kind distributions of AutoZone shares. Less than six months later, Grantor sold most of the shares on the open market. Plaintiff sued to pursue disgorgement of Grantor's alleged short-swing profits in violation of Section 16(b) of the Securities Exchange Act.

Legal Analysis: Section 16(b) provides that officers, directors, and holders of more than 10% of the listed stock of any company shall be liable to the company for any profits realized from any purchase and sale or sale and purchase of such stock occurring within a period of six months. The question at issue is whether the Grantor selling the stock on the open market within six months of receiving the stock from the GRATs falls within Rule 16(b). The Rule 16a-13 Exemption states "[a] transaction . . . that effects only a change in the form of beneficial ownership without changing a person's pecuniary interest in the subject equity securities shall be exempt from [Section 16(b)]." 17 C.F.R. § 240.16a-13. A pecuniary interest in the stock includes both a direct and indirect pecuniary interest in a trust, such as in the case of the GRATs where Grantor was the grantor, trustee, and annuitant. Further, 17 C.F.R. § 240.16a-1(a)(2) provides that Grantor was an indirect beneficiary of the securities while they were held by the trust. Once Grantor received the securities back via his annuity payment, he then became the direct beneficiary of the securities. Further, as the Grantor's children had no power to exercise or share investment control over the securities, they were not considered to have a beneficial interest in the securities for Section 16(b) purposes. Therefore, Grantor was the only beneficial owner of the securities from the GRAT funding in 2020 through the sale of the securities on the open market in 2022.

Nosirrah Management, LLC v. AutoZone, Inc.

(W.D. Tenn. 2025)

Holding: Grantor's reacquisition of the AutoZone stock through the GRAT annuity payments was a transaction that effected only a change in the form of beneficial ownership without changing the Grantor's pecuniary interest in the subject equity securities, and such transaction is thus exempt from Section 16.

Takeaway: Planning for insiders does not just require a consideration of tax and estate planning laws, but also securities law. An earlier 2024 Order in this case suggested that the GRAT's inclusion of a swap power (even without exercising it) could cause the Rule 16a-13 Exemption to not apply. The Court opinion is silent on the swap power, but it does ultimately rule that the legal title transfer of securities from the GRAT to the Grantor would fall under the Exception.

Planning Playbook and Takeaways

2025 Planning

1. Accelerate charitable giving

Frontload charitable gifts in 2025 before the new 0.5% AGI floor (for itemizers) takes effect.

2. Revisit pre-sunset gifting strategies

There is no longer the need for knee-jerk gifting. Take the time to review client's existing plan and asset composition. Planners can now design structures more patiently with an emphasis on durability, flexibility, and tax-efficient growth.

3. Review QSBS sale rules under TCJA vs. new rules

Consider moving QSBS sales to subsequent years if doing so would yield a greater capital gain exclusion under the OBBBA.

2026 and Beyond

1. Refresh credit shelter/marital trust planning

- Is \$15 million too much to place in the credit shelter?
- Should a credit shelter provide more for surviving spouse and less for other beneficiaries?

2. Optimize income tax planning

- Review cost basis planning and what assets should be retained until death (or substituted out of existing trusts)
- Monitor whether income would be more tax efficient in the hands of the beneficiaries and make distributions if appropriate

3. Nongrantor trust planning for QSBS and State and Local Tax (SALT) deductions

- Weigh administrative burdens over tax savings.
- Governing state laws may dictate planning options.

4. Monitor QOZ redesignations

Questions?

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