35th Annual

Tax Symposium

ROUNDUP OF RECENT TAX DEVELOPMENTS

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OBBBA AND OTHER RECENT TAX DEVELOPMENTS

- Filing Stats & Inflation Factors
- One Big Beautiful Bill Act
- Selected other Tax Developments
  - Individuals
  - Business
  - Employee Benefits
  - Estate Planning
  - Michigan



FILING STATS & INFLATION FACTORS

OBBBA STATS FROM THE 2026 FILING SEASON

As of April 14, 2026:

- Over 53 million filers claimed at least one of the new tax benefits from OBBBA;
- Over 25 million filers claimed the new deduction for overtime pay, with an average deduction of over $3,100;
- Over 6 million claimed the deduction for tip income, for an average deduction of more than $7,100;
- The enhanced deduction for seniors was claimed by over 30 million taxpayers, for an average deduction of over $7,500 (presumably due to MFJ filers);
- The deduction for car loan interest on qualified vehicles was taken by over 1 million filers;
- 5 million elections to open Trump Account have been filed;
- Over 34 million families have claimed the enhanced Child Tax Credit; and
- Over 105 million filers have claimed the permanently doubled standard deduction.

U.S. Department of the Treasury Press Release (April 15, 2026) Available at: https://home.treasury.gov/news/press-releases/ sb0441

INFLATION ADJUSTMENTS FOR 2027

Rev. Proc. 2026-35

- **Base standard deduction:**
  - Married filing jointly: $33,200
  - Single and married filing separately: $16,600
  - Head of household: $24,925
- **Child tax credit: $2,300 (up from $2,200 in 2026)**
- **Refundable portion of child tax credit: $1,800 (up from $1,700 in 2026)**
- **Unified exclusion: $15,480,000 (up from $15 million in 2026)**
- **Annual gift tax exclusion: $20,000 (up from $19,000 in 2026)**

INFLATION ADJUSTMENTS FOR 2027

Rev. Proc. 2026-35

- **AMT exemption:**
  - $93,000 for single and head of household (up from $90,100 in 2026)
  - $144,700 for married filing jointly and surviving spouse (up from $140,200 in 2026)
- **AMT exemption phaseout threshold:**
  - $515,950 for single filers (up from $500,000 in 2026)
  - $1,031,900 for married filing jointly (up from $1,000,000 in 2026)
- **IRC §179 expense limit: $2,640,000 (up from $2,560,000 in 2026)**

OBBBA INDIVIDUALS

CHARITABLE CONTRIBUTIONS

- Beginning in 2026, taxpayers can deduct up to $1,000 ($2,000 MFJ) without itemizing
- Also, beginning in 2026 OBBBA places a new 0.5% floor on charitable contribution deductions for both itemizers and non-itemizers
- Deductions are allowed to the extent contributions exceed 0.5% of AGI
- Disallowed deductions may be carried forward
- OBBBA also makes permanent the 60% AGI limitation for cash contributions to public charities

DEDUCTION FOR TIPS

- **Final Treas. Regs. §1.224-1**:
  - Provides a complete list of qualified occupations and their TTOCs (although the job descriptions in the TTOC chart are only illustrative and not exhaustive)
  - Defers guidance on the IRC §224 specified service trade or business exclusion (Notice 2025-69 still applies)
  - The definition of cash tips is modified to exclude digital assets (e.g., bitcoin, stablecoins, etc.)

DEDUCTION FOR TIPS

Final Treas. Regs. §1.224-1 – con't.

- Tips paid with credit and debit cards and through apps like Venmo and Zelle still qualify as do tips paid in foreign currency
- Do not address whether the self-employed health insurance deduction, the ½ self-employment deduction, and the self-employed retirement deduction are deducted for purposes of determining the net income limitation for self-employed persons
  - The original version of the Schedule 1-A instructions did not require these items to be deducted for purposes of calculating the net income limitations, but later instructions do
- Taxpayers in the cannabis industry are ineligible

DEDUCTION FOR TIPS

- **Final Treas. Regs. §1.224-1 – con't.**
  - No change in the following positions:
    - Self-employed persons can only claim the deduction for tips included on Form 1099
    - Partners cannot claim a deduction for tips reported on an information return provided to the partnership

DEDUCTION FOR CAR LOAN INTEREST

Final regs (TD 10054) - September 8, 2026:

- **First Liens**
  - Only interest paid on first liens qualifies for the vehicle loan interest deduction
  - "First voluntary security interest recorded against the vehicle"
  - Intended to protect against disqualification arising from involuntary liens, such as mechanics liens or state tax liens, which might take legal priority under state law

DEDUCTION FOR CAR LOAN INTEREST

Final regs – con't.

- **Debt incurred for the purchase of the vehicle includes:**
  - Mechanical repair coverage & vehicle service plans
  - Vehicle protection products (e.g., wheel & tire protection)
  - Guaranteed Asset Protection (GAP) insurance/waivers
  - Credit insurance (accident, health & life)
  - Key fob replacement plans
  - Title & registration fees

DEDUCTION FOR CAR LOAN INTEREST

Final regs – con't.

- **Interest includes:**
  - Prepaid interest (points)
  - Capitalized or deferred interest
  - Origination fees, prepayment penalties, and late fees characterized as interest for tax purposes and reported on the lenders Form 1098-VLI

DEDUCTION FOR CAR LOAN INTEREST

Final regs – con't.

- **Original use:**
  - Does not include the dealer so long as the vehicle is held primarily for sale to customers
  - Allows purchasers of test drive or floor models to qualify even though the vehicle was previously titled in the name of the dealer under state law
- **Substitute vehicles**:
  - Enables a new vehicle to be treated as the original vehicle where the original vehicle is replaced under a lemon law or insurance substitution

DEDUCTION FOR CAR LOAN INTEREST

Final regs – con't.

- **Nonresident eligibility:**
  - Nonresidents are generally ineligible
  - Exception where the interest expense is effectively connected with a U.S. trade or business
- **Information reporting**:
  - Formal reporting on Form 1098-VLI is required beginning with the 2026 tax year

GAMBLING LOSSES

- The TCJA's rule limiting gambling losses to gambling gains is made permanent
- Starting in 2026, the deduction for gambling losses is limited to 90% of gambling gains



DISCHARGE OF STUDENT LOAN DEBT

- New exclusion for income arising from student loans discharged on account of the death or permanent disability of the student
- Begins in 2026
- Must include SSN on tax return
- Special rules apply for student loans forgiven under ARPA during 2021-2025

CHILD & DEPENDENT CARE TAX CREDIT

- **Generally, daycare expenses that allow the taxpayer to work or look for work**
  - Credit rate X qualifying expenses up to $3,000 for 1 dependent or $6,000 for 2 or more
  - Credit rate
    - 35% if AGI is $15,000 or less
    - Gradually reduced until it reaches 20% when AGI exceeds $43,000

CHILD & DEPENDENT CARE TAX CREDIT

- **OBBBA changes beginning in 2026**:
  - Increases credit rate:
    - 50% if AGI is $15,000 or less
    - Gradually reduced until it reaches 35% when AGI exceeds 75,000 ($150,000 MFJ)
    - Gradually reduced further until it reaches 20% when AGI exceeds 103,000 ($206,000 MFJ)
  - Increases maximum credit:
    - From $1,050 to $1,500 for 1 dependent
    - From $2,100 to $3,000 for more than 1 dependent
  - Increases the exclusion for employer-sponsored childcare from $5,000 to $7,500 per taxpayer ($3,750 for married filing separate)

529 PLANS

- After July 4, 2025, expands the definition of qualified education expenses for K-12 beyond only tuition to also include books, materials, testing fees, dual enrollment fees, educational therapies and tutoring costs
- Applies to K-12 attendance or enrollment at a public, private or religious elementary or secondary school
- 529 funds can now also be used on qualified postsecondary credentialing expenses if the beneficiary is enrolled in a recognized postsecondary credential program
- Beginning January 1, 2026, the total limit for all K-12 expenses will rise to $20,000 per year (from $10,000)
- Ability to make rollovers from 529 accounts to ABLE accounts made permanent

TRUMP ACCOUNTS

T.D. 10056 and CC-002264-26

September 30, 2026:

- IRS issued new temporary regulations (T.D. 10056) and a notice of proposed rulemaking (CC-002264-26)
- An earlier set of proposed regulations (REG-117270-25) were withdrawn
- The new temporary regulations are effective September 30, 2026, and apply to taxable years beginning on or after January 1, 2026
- They expire on September 30, 2029

TRUMP ACCOUNTS

T.D. 10056 and CC-002264-26

New Temporary Regulations:

- Provide for broad automatic enrollment
- The Secretary of the Treasury will establish a Trump account for each eligible individual for whom no prior election has been made
- These accounts are referred to as “auto accounts”
- The assets of these auto accounts will be invested through a master group trust established by Secretary

TRUMP ACCOUNTS

T.D. 10056 and CC-002264-26

Auto Accounts – Master Group Trust:

- Separate governing instrument
- Separate account-level records
- But the assets are invested collectively through the master group trust
- Each auto account has an undivided proportionate beneficial interest in the investments held through the master group trust
- This arrangement allows the trustee to execute transactions without receiving or disclosing account-identifying return information for each account beneficiary

T.D. 10056 and CC-002264-26

Auto Accounts – Contributions

- During growth period:
  - Qualified general contributions
  - Qualified stock contributions
  - $1,000 pilot program contributions
- After the growth period:
  - Auto accounts may generally not accept contributions

TRUMP ACCOUNTS

T.D. 10056 and CC-002264-26

Auto Accounts – Qualified General Contributions:

- Contributions made by the Secretary pursuant to a qualified general contribution made by an eligible donor in an equal amount to all account beneficiaries in a qualified class (Treas. Reg. §1.530A-7T)
- Qualified class:
  - A qualified class for an auto account under Trump account rules is defined by age or geography
  - An "approved class" combines both criteria and is treated as a qualified class
  - Each qualified class must include at least 5,000 beneficiaries

T.D. 10056 and CC-002264-26

Auto Accounts / Qualified General Contributions – con't.

- Contributions to an eligible donor are deductible under IRC §170 if:
  - Made to fund a qualified general contribution; and
  - The eligible donor is:
    - An organization described in section 501(c)(3)
    - Exempt from tax under section 501(a)

TRUMP ACCOUNTS

T.D. 10056 and CC-002264-26

Auto Accounts – Qualified Stock Contributions:

- Qualified stock:
  - Issued by a corporation that is domestic within the meaning of section 7701(a)(3) and (4)
  - Listed on a national securities exchange registered under section 6 of the Securities Exchange Act of 1934
- Not subject to any pre-existing transfer restriction

TRUMP ACCOUNTS

T.D. 10056 and CC-002264-26

Auto Accounts / Qualified Stock Contributions - con't.

- Holding period requirement:
  - Qualified stock may not be sold or otherwise disposed of before the earlier of the date that is five years after the qualified stock contribution is received by the Trump account and the end of the growth period for the account beneficiary
- Exceptions:
  - To effectuate a qualified ABLE rollover contribution
  - To permit cash in lieu of fractional shares that cannot be transferred in kind as part of a qualified rollover contribution
  - If the responsible party directs the trustee to accept a tender offer for the qualified stock
  - If the issuer of the qualified stock is acquired, by merger, purchase, or otherwise

TRUMP ACCOUNTS

- **Gift Tax**:
  - Section 529(c)(2) provides that contributions to 529 accounts "shall be treated as a completed gift to such beneficiary which is not a future interest in property"
  - Qualifies contributions to a 529 account for the annual exclusion from gift tax and the GST annual exclusion
  - Legislation enacting Trump accounts does not include similar language

TRUMP ACCOUNTS

- **Gift Tax – con't**:
  - Under Rev. Proc. 2026-25, qualifying cash contributions to a Trump account are treated as completed present-interest gifts
  - Donors do not have to file a gift tax return for the contribution if all safe harbor conditions are met



TRUMP ACCOUNTS

Gift Tax – con't:

- To qualify and not have to file a gift tax return:
  - The donor's only taxable gifts must be cash contributions to Trump accounts for beneficiaries under age 18;
  - The donor's total gifts to each beneficiary for the calendar year, including the contribution to that beneficiary's Trump account, must not exceed the annual gift tax exclusion ($19,000 for 2026) or the lifetime gift, estate, and GST tax exemption (currently $15 million, indexed annually); and
  - No gift tax return must otherwise be required or filed by the donor for that year.

Note: In 2027, the annual gift tax exclusion increases to $20,000 per recipient and the lifetime exemption to $15,480,000

TRUMP ACCOUNTS

Rules & Guidance for Employers

- **Trump Account Contribution Program "TACP"**
  - IRC §128
  - Prop. Regs. IR-2026-90; REG-101355
- **Highlights**
  - An employee cannot make contributions to their own Trump account, only a dependent's
  - Total contributions from employers, family members, and others cannot exceed $5,000 annually (adjusted for inflation after 2027)

TRUMP ACCOUNTS

Highlights – con't

- The maximum $2,500 exclusion is per employee, not per child/dependent
- Married taxpayers filing joint can each qualify for the $2,500
- If an employee is employed by two unrelated employers, the maximum is still $2,500
- Contributions over $2,500 are taxed as compensation subject to FICA and FUTA
- If total contributions to a Trump account exceed $5,000, the excess is attributed to nonemployer contributions first

TRUMP ACCOUNTS

- **Highlights – con't**
  - Self-employed individuals are ineligible (including partners, sole proprietors, and 2% S corporation shareholders)
  - Cannot limit contributions to Trump accounts at specific financial institutions
  - Employers can rely on an employee's certification that they or their dependent are eligible
  - Members of a controlled group, trades or business under common control, affiliated service groups, and entities otherwise aggregated under IRC §414(q) are treated as a single employer

OBBBA BUSINESSES

QUALIFIED BUSINESS INCOME DEDUCTION

- 20% deduction for QBI under Section 199A made permanent
- Effective 2026, phase-out range is increased from $50,000 to $100,000 for MFJ and from $75,000 to $150,000 for MFS:

FILING STATUS	2025 THRESHOLD AMOUNT	2025 PHASEOUT AMOUNT
Married filing jointly	$394,600	$494,600
All other taxpayers	$197,300	$247,300

QUALIFIED BUSINESS INCOME DEDUCTION

- **The Section 199A deduction is 20% of the lesser of**:
  - Net qualified business income; or
  - Taxable income before the 199A deduction and after reduction for any net capital gains
- **OBBBA revises the computation of taxable income by excluding the Section 68 itemized deduction limitation**
- **Thus, any disallowed itemized deductions must be added back into taxable income in computing the Section 199A deduction**

QUALIFIED BUSINESS INCOME DEDUCTION

- **Effective for 2026, there is a new $400 minimum deduction:**
  - For “applicable taxpayers” meaning those whose aggregate QBI from all “active qualified trades or businesses” is at least $1,000
  - “Active qualified trades or businesses” means any trade or business in which the taxpayer materially participates

CHARITABLE CONTRIBUTIONS BY C CORPORATIONS

- **Beginning in 2026, C corporations are subject to a 1% floor on deductions for charitable contributions**
- **Resulting limitations**:
  - Allowed only to the extent contributions exceed 1% of the corporation's taxable income
  - Limited to 10% of the corporation's taxable income

OBBBA EMPLOYERS

BUSINESS MEALS

- **TCJA created IRC §274(o)**
  - Eliminates the deduction for employer provided meals
  - 50% deductible through 2025
  - 100% disallowance beginning in 2026
  - OBBBA did not defer the disallowance

BUSINESS MEALS

- **OBBBA did create two exceptions**:
  - The meals are provided at a facility in which goods or services (including the use of facilities) are sold by the taxpayer in a bona fide transaction for an adequate and full consideration in money or money's worth
    - *e.g., meals provided to restaurant workers during their shifts*
  - The meals are required by federal law to be provided to crew members of a commercial vessel
    - *Includes fishing vessels, certain fish processing facilities, and offshore oil rigs and gas platforms*

BUSINESS MEALS

Expense	Amount Deductible
Client entertainment (sports tickets, golf outings, etc.) Client meals not purchased separately from the entertainment	-0-%
Client meals directly related to a business meeting	50%
Meals for employees while traveling for business	50%
Meals provided for the convenience of the employer (employee meals in the office; office coffee, water & snacks)	50% through 2025; -0-% after 2025*
Holiday parties, company picnics & employee appreciation events	100%

*Subject to the exceptions for restaurants and commercial fishing vessels

EMPLOYER-PROVIDED CHILD CARE CREDIT

- **Employer credit for qualified childcare facility and resource and referral expenditures**
- **Credit is increased**:
  - From 25% to 40%
  - 50% for "eligible small businesses"
- **Credit limit is increased**:
  - From $150,000 to $500,000
  - $600,000 for "eligible small businesses"
  - Adjusted annually for inflation

EMPLOYER-PROVIDED CHILD CARE CREDIT

- **"Eligible small business"**
  - Average gross receipts do not exceed:
    - $25 million
    - Over the previous 5-year period
- **Effective for amounts paid or incurred after 2025**

EMPLOYER PROVIDED DEPENDENT CARE

- Beginning with 2026, the exclusion for employer provided dependent care assistance is increased to $3,750 ($7,500 MFJ)



INDIVIDUALS

AUTOMATIC EXEMPTION FROM PENALTY

IR-2026-83

Overview:

- AEP is a program that automatically waives certain late-filing and late-payment penalties during original return processing for taxpayers with a clean compliance history
- IRS identifies qualifying taxpayers during return processing and suppresses the penalty from being assessed in the first place—no phone calls, written requests, or Form 843 filings are needed
- If AEP is applied, the IRS sends a confirmation notice (such as Letter CP195B) letting you know the penalty was waived due to your compliance history
- Taxpayer still must still pay the original tax balance and any statutory interest
- Began being phased in last summer, but fully effective for returns with due dates on or after January 1, 2027
- Replaces the first-time penalty abatement program

AUTOMATIC EXEMPTION FROM PENALTY

IR-2026-83

Eligibility:

- Must have timely filed required returns and paid any tax due for the three prior tax years (or 12 consecutive quarters for quarterly employment/excise filers)
- AEP applies to tax year 2025 returns, 2026 quarterly returns, and future tax periods
- Included forms span common filings like Form 1040, Form 1065, Form 1120, Form 940, and Form 941

AUTOMATIC EXEMPTION FROM PENALTY

IR-2026-83

Covered Penalties:

- Failure-to-file penalty
- Failure-to-pay penalty
- Failure-to-deposit penalty (for employment taxes)

Excluded Penalties:

- Daily delinquency penalties
- Accuracy-related penalties
- Information return penalties
- Estate and gift tax returns (such as Form 706 and Form 709) or other infrequent transaction returns
- Estimated tax penalties



INDIVIDUAL TAX CASES

FILING DEADLINES SUBJECT TO EQUITABLE TOLLING

***Big Apple Tompkins Realty LLC v. Commissioner* (August 2026)**:

- In a case of first impression regarding partnership audits under the Bipartisan Budget Act of 2015 (BBA), the U.S. Tax Court held that the 90-day petition filing deadline under I.R.C. § 6234(a) is not jurisdictional
- The court concluded that section 6234(a) provides a permissive filing grant rather than a limit on the court's jurisdiction (which is located separately in section 6234(c))

FILING DEADLINES SUBJECT TO EQUITABLE TOLLING

Federal Circuit Court Cases Reaching Similar Conclusions:

- *Maniktala v. Commissioner* (Eighth Circuit, 2026)
  - The Eighth Circuit reversed the Tax Court and held that the 90-day deadline under I.R.C. § 6213(a) for deficiency petitions is non-jurisdictional and may be subject to equitable tolling
- *Oquendo v. Commissioner (*Sixth Circuit, 2025)
  - The Sixth Circuit aligned with the position that I.R.C. § 6213(a)'s 90-day petition filing deadline is non-jurisdictional, noting that the statutory language directing the taxpayer does not clearly tie the deadline to the Tax Court's jurisdiction
- *Culp v. Commissioner* (Third Circuit, 2023)
  - The Third Circuit ruled that the 90-day filing deadline for deficiency redetermination petitions under I.R.C. § 6213(a) is not jurisdictional and is subject to equitable tolling

FILING DEADLINES SUBJECT TO EQUITABLE TOLLING

These cases stem from a U.S. Supreme Court Decision:

- *Boechler, P.C. v. Commissioner*, 596 U.S. 199 (2022)
  - The U.S. Supreme Court held that the 30-day deadline under I.R.C. § 6330(d)(1) to petition the Tax Court for review of a Collection Due Process (CDP) determination is not jurisdictional
  - The Court noted that a procedural requirement is treated as a jurisdictional requirement only if Congress "clearly states that it is"
  - The Court considered the text of section 6330(d)(1) and stated that Congress did "not clearly mandate the jurisdictional reading"
  - Section 6330(d)(1) provides: "The person may, within 30 days of a determination under this section, petition the Tax Court for review of such determination (and the Tax Court shall have jurisdiction with respect to such matter)"

BUSINESS

DOL WORKER CLASSIFICATION RULE

DOL News Release 26-123-NAT (February 26, 2026)

Background:

- Notice of Proposed Rulemaking by the DOL that reinstates a streamlined five-factor "economic reality" test to determine whether a worker is an employee or an independent contractor
- Rescinds the DOL final rule that went into effect in 2024
- Similar to the DOL's 2021 rule that was replaced by the 2024 rule

Objective:

- Provide a more business-friendly test that evaluates the day-to-day operations and functional realities of a working relationship to see if a worker is genuinely in business for themselves or is economically dependent on the employer

DOL WORKER CLASSIFICATION RULE

DOL News Release 26-123-NAT (February 26, 2026)

Five-factors:

1) The nature and degree of the worker's control over the work
2) The worker's opportunity for profit or loss
3) The amount of skill required for the work
4) The degree of permanence of the working relationship
5) Whether the work is part of an integrated unit of production

DOL WORKER CLASSIFICATION RULE

DOL News Release 26-123-NAT (February 26, 2026)

Two Core factors:

- **Nature and degree of control:** Examines how much autonomy the worker exercises over their schedule, choosing assignments, and working with minimal or no supervision
- **Opportunity for profit or loss:** Analyzes whether the worker can affect their earnings or face economic risks based on their own business initiative, managerial skill, or personal investments

SECTION 530 EMPLOYMENT TAX LIABILITY RELIEF

20 Factors Used by IRS to Determine Worker Classification:

- **Behavioral Tests**
  - ❑ Extent to which employer controls how the work is done
- **Financial Tests**
  - ❑ How payment is structured
  - ❑ Whether expenses are reimbursed
  - ❑ Who provides tools & supplies
- **Relationship Tests**
  - ❑ Contract, benefits provided, permanency of relationship, etc.
  - ❑ Whether services are integral to business' operations

LIMITED PARTNER EXCEPTION TO SELF-EMPLOYMENT TAX

Case Name	Forum / Court	Core Legal Standard on Limited Partners	Current Status
Soroban Capital Partners LP v. Commissioner	U.S. Court of Appeals for the Second Circuit (2026)	(1) Must be a limited partner under state law; and (2) not "run, manage, or otherwise exert control or managerial authority over the partnership"	Affirmed the Tax Court
Denham Capital Management LP v. Commissioner	U.S. Tax Court (2024)	Functional Analysis Test: Reaffirmed the Soroban holding. Active participation in management disqualifies a partner from the self-employment tax exception	Pending appeal before the First Circuit
Sirius Solutions LLLP v. Commissioner (reissued as K Alain, LLLP v. Commissioner)	U.S. Court of Appeals for the Fifth Circuit (2026 Rehearing)	(1) Must be a limited partner under state law; and (2) someone who "plays no significant role in managing or running a business"	Vacated and remanded to the Tax Court

LIMITED PARTNER EXCEPTION TO SELF-EMPLOYMENT TAX

What does this all mean?

- The general rule is that partners are subject to self-employment tax on income received from the partnership for guaranteed payments for services and for the partner's distributive share of partnership income (IRC §1402(a) and (b))
- The limited partnership exception excludes the limited partner's distributive share of partnership income from self-employment tax (IRC §1402(a)(13))

LIMITED PARTNER EXCEPTION TO SELF-EMPLOYMENT TAX

What does this all mean – con't.

- In the Second (CT, NY & VT) and Fifth Circuits (LA, MS & TX), to exclude a partner's distributive share of partnership income from self-employment tax, the partner must:
  - ❑ Be a limited partner under state law; and
  - ❑ Have no role in running or managing the business, although the partner can perform some work for the partnership
- Elsewhere, the IRS may continue to assert the argument that a partner who performs work for the partnership may not be able to use the limited partner exception even though he/she is not involved in any management activities

FOREIGN TAX CREDITS CANNOT OFFSET NIIT

- Reversing the Federal Court of Claims, the U.S. Court of Appeals for the Federal Circuit ruled that the Foreign Tax Credit generally cannot offset the 3.8% net investment income tax (NIIT) notwithstanding tax treaties to the contrary
  - *Estate of Bruyea v. U.S.*, Case No. 2025-1563 (Fed. Cir. August 31, 2026)
  - *Christensen v. U.S.*, Case No. 2024-1184 (Fed. Cir. August 31, 2026)

EMPLOYEE BENEFITS

NEW IRA CORRECTION SYSTEM

Rev. Proc. 2026-33

- **Establishes a new IRA compliance resolution system (ICRS)**
- **Correction of inadvertent failures from service provider errors – examples:**
  - Erroneous or missed minimum distribution because of a service provider's mistake
  - Service provider causes a nonspouse beneficiary to incur a taxable transaction while thinking that a distribution from an inherited IRA could be rolled over without having to include the distribution in their income
  - Service provider mistakenly establishes and opens a different type of account than the requested IRA

NEW IRA CORRECTION SYSTEM

Rev. Proc. 2026-33

- **Rollover waiver:**
  - Allows IRA owners to request a waiver of the 60-day rollover requirement when rolling over to another plan from the first IRA
  - Previously had to submit a private letter ruling request
- **Fees:**
  - A regular submission will cost $3,500
  - A group fee for the first 10 affected IRA owners will be $10,00
  - Each affected owner after the first 10 will cost an additional $250, and the group fee maxes out at $50,000
- **ICRS goes into effect May 1, 2027**

ESTATE PLANNING

NEW 2/37TH ITEMIZED DEDUCTION LIMITATION

Background:

- Pre-TCJA miscellaneous itemized deductions above a 2% floor were deductible
- TCJA eliminated miscellaneous itemized deductions for both individuals and trusts
- Trusts have no standard deduction to fall back on
- But trusts do get a special break
  - Applies to expenditures that wouldn't have been incurred if the trust property had been owned by an individual
  - These expenditures are completely deductible (i.e., no 2% floor)

NEW 2/37TH ITEMIZED DEDUCTION LIMITATION

Two Categories of Trust Expenses

Not Deductible:

- Cost would still be incurred if an individual were holding the same property (e.g., defending a claim unrelated to the validity of the trust)
- Ownership costs such as condominium fees, insurance premiums, maintenance and lawn services, and automobile registration and insurance costs
- Fees for investment advice

Deductible:

- Costs relating to all estate and generation-skipping transfer tax returns, fiduciary income tax returns, and the decedent's final individual income tax return
- Incremental costs of investment advice beyond the amount that would normally be charged to individual investor
- Appraisal fees to determine the fair market value of assets as of the decedent's date of death, to determine value for the purposes of making distributions, or as otherwise required to properly prepare the trust's tax returns
- Fiduciary expenses not commonly incurred by individuals, such as probate court fees and costs, fiduciary bond premiums, legal publication costs of notices to creditors or heirs, the cost of certified copies of the decedent's death certificate, and costs related to fiduciary accounts

NEW 2/37TH ITEMIZED DEDUCTION LIMITATION

OBBBA:

- Modifies IRC 68 by imposing a 2/37th limitation on non-miscellaneous itemized deductions
  - Unlike the prior Pease limitation, the new limitation applies to both individuals and estates & trusts
- Allowable itemized deductions are reduced by the lesser of:
  - 2/37th of the total itemized deductions; or
  - 2/37ths of the amount of taxable income above the income level at which the highest rate bracket applies of 37%
- Trusts and estates reach the highest marginal income tax bracket in 2026 with income of $16,000
  - Non-grantor trusts may be more inclined to make distributions of income to stay below the $16,000 income level

NEW 2/37TH ITEMIZED DEDUCTION LIMITATION

Potential double taxation issue for non-grantor trusts:

- Trusts and estates under IRC §§651 and 661 get a deduction for distributions to beneficiaries who then pick up the tax on the distributions
- If new IRC §68 limits the trust's deduction, then the same income will be taxed to both the trust and the beneficiary
- The Joint Committee on Taxation's May 28, 2026, Blue Book report states in Footnote 102 that the distribution deductions available to trusts and estates under IRC §§651 and 661 are treated as itemized deductions subject to the 2/37ths limitation under amended IRC §68
- Major professional groups have argued that this interpretation ignores the broader structure of the Code, but whether Congress or the IRS will rectify this problem is currently unknown

EARLY TERMINATION OF QTIP TRUST

Linda M. Lewis v. Commissioner and Peter F. McDougall v. Commissioner, T.C. Memo. 2026-58 (July 20, 2026)

Issue:

- U.S. Tax Court determined the value of taxable gifts made when two children surrendered their remainder interests in a Qualified Terminable Interest Property (QTIP) trust

Parties:

- Petitioners Linda M. Lewis and Peter F. McDougall (children) and respondent Commissioner of Internal Revenue, involving their father, Bruce McDougall

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The Trust:

- Created under the will of Clotilde McDougall (who died in 2011), the QTIP trust provided an income interest to Bruce McDougall and remainder interests to Linda and Peter
- Bruce also held a testamentary limited power to appoint trust principal among Clotilde's descendants

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Termination of the QTIP trust:

- In 2016, Bruce, Linda, and Peter agreed to terminate the trust early and distribute all approximately $117.6 million of the trust's assets outright to Bruce

Prior Ruling:

- Court concluded that the children made taxable gifts to their father by surrendering their remainder interests
- *McDougall v. Commissioner*, 163 T.C. 112 (2024)

EARLY TERMINATION OF QTIP TRUST

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Holding 1: Impact of the Testamentary Limited Power of Appointment

- Taxpayer Position: The children argued that their remainder interests had only nominal value ($156,000). They reasoned that their father possessed a testamentary limited power of appointment, meaning he could theoretically choose to direct all trust assets entirely away from them upon his death.
- IRS Position: The IRS argued that the power of appointment must be entirely disregarded. Because the family's nonjudicial agreement dissolved the trust early, the power of appointment was eliminated and could no longer impact the value of the remainder.
- Court's Holding: The court sided with the IRS. It ruled that the gift value cannot be reduced by the power of appointment. Based on the mother's intent within the original will, an early termination of the trust meant the assets were meant to be divided according to the beneficiaries' fixed economic interests.

EARLY TERMINATION OF QTIP TRUST

Linda M. Lewis v. Commissioner and Peter F. McDougall v. Commissioner, T.C. Memo. 2026-58 (July 20, 2026)

Holding 2: Application of I.R.C. § 7520 Actuarial Tables vs. State Law

- Taxpayer Position: The taxpayers argued that the valuation of what they gave up must be determined by state trust law and the specific terms of the trust rather than federal actuarial tables.
- IRS Position: The IRS contended that terminating the trust transformed the remainder into prototypical property interests, meaning they had to be valued mechanically using the standard federal actuarial factors prescribed under Internal Revenue Code § 7520.
- Court's Holding: The court sided with the taxpayers. Judge Halpern ruled that state law governs the underlying property entitlements upon trust termination. Section 7520 tables do not override substantive state law property rights when determining what a beneficiary is legally entitled to receive upon a trust's dissolution.

EARLY TERMINATION OF QTIP TRUST

Linda M. Lewis v. Commissioner and Peter F. McDougall v. Commissioner, T.C. Memo. 2026-58 (July 20, 2026)

Holding 3: Net Gift Reductions Under I.R.C. § 2207A(b)

- Taxpayer Position: The children argued that the value of their gifts should be reduced by the statutory gift tax reimbursement obligations they avoided under I.R.C. § 2207A(b). In a standard scenario, if they received their remainder distributions, their father would be hit with a deemed gift tax liability that he could legally recover from the children. By letting him keep everything, they avoided this liability, triggering a "net gift" discount.
- IRS Position: The IRS claimed that any reduction for § 2207A taxes was purely hypothetical and speculative. Since no gift tax was actually paid by the father and no financial reserve was set aside, no net-gift reduction should be permitted.
- Court's Holding: The court sided with the taxpayers. It ruled that the gift value must be reduced by the avoided § 2207A reimbursement obligations. Gift value must be measured by comparing the actual transaction against what the children would have received under state law, which would have been a distribution net of their tax reimbursement liabilities.

EARLY TERMINATION OF QTIP TRUST

Linda M. Lewis v. Commissioner and Peter F. McDougall v. Commissioner, T.C. Memo. 2026-58 (July 20, 2026)

Holding 4: Adjustments to Standard Life Expectancy Tables for Health and Wealth

- Taxpayer Position: The taxpayers' valuation expert adjusted the father's actuarial age downward from 85 to 80. The expert argued that because the father was a top 1% earner with exceptional health, he had a statistically longer life expectancy than the general population, which theoretically lowered the present value of the children's remainder interest.
- IRS Position: The IRS insisted that the standard, unadjusted actuarial life expectancy tables mandated by the regulations must be used.
- Court's Holding: The court sided with the IRS. The court held that high income or general good health alone does not justify departing from standard actuarial life expectancy tables. The rigorous legal threshold required to deviate from standard regulatory tables was not met simply by demonstrating high socioeconomic status.

EARLY TERMINATION OF QTIP TRUST

Linda M. Lewis v. Commissioner and Peter F. McDougall v. Commissioner, T.C. Memo. 2026-58 (July 20, 2026)

Result:

- Based on these combined holdings and the IRS's procedural concessions, the final value of the taxable gift was determined to be $35,141,321 per child
- Tax Court rejected:
  - IRS's original valuation of $53.4 million per child
  - Taxpayers' nominal figure of $156,000

MICHIGAN

401(K) AND LIFE INSURANCE EXEMPT FROM CREDITOR CLAIMS

In In re Estate of Jennifer L. Fowler, Docket No. 167501 (July 20, 2026)

Case Background:

- A woman serving as her mother's patient advocate removed her mother from an assisted living facility, subsequently killed her mother, and then died by suicide
- The mother's estate, represented by one of her other daughters, brought a wrongful death lawsuit against the daughter's estate and obtained a judgment
- A wrongful death judgment of over $623,000 was entered against Jennifer Fowler's estate
- When the daughter's estate proved insolvent, attention turned to a revocable trust the daughter had created, which was the designated beneficiary of her 401(k) account and life insurance policy
- The trustee of the daughter's trust sought a declaratory ruling on whether these proceeds could be used to satisfy the judgment for the mother's estate

401(K) AND LIFE INSURANCE EXEMPT FROM CREDITOR CLAIMS

In In re Estate of Jennifer L. Fowler, Docket No. 167501 (July 20, 2026)

Key Rulings:

- Retirement Funds: The Supreme Court held that 401(k) proceeds are protected from creditors under Michigan statute MCL 700.7605(2)
- Life Insurance: The Court held that life insurance proceeds are protected under MCL sections 700.7605(4) and the Michigan Insurance Code, so long as they are not paid directly to the estate

Final Result:

- The Michigan Supreme Court reversed the Court of Appeals and that 401(k) and life insurance proceeds paid to a revocable trust after death are exempt from creditor claims

Note: Also see MCL sections 500.4054 and 500.2207(2) in the case of life insurance, and MCL 600.6023(1) in the case of IRAs and qualified retirement plans.

35th Annual

Tax Symposium

QUESTIONS

Submit questions for presenters

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