

Estate Planning Current Developments From “OB3” to QSB

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New Tax Law Factoids

- 870 pages
- Proposed Amendments
 - House – 1
 - Senate – 492
- Original Short Title, “The One, Big, Beautiful Bill”
- Enacted Short Title – none
- Official Title – “An Act to provide for reconciliation pursuant to title II of H. Con. Res. 14.”
- Unofficial Title TBD? Perhaps the “Big Beautiful Bill”, “BBB” or “OB3”

Estate & Gift Tax and Generation Skipping Transfer Tax Exemptions



Current Law	New Law	Duration
<ul style="list-style-type: none">▪ \$13,990,000 (\$10,000,000 indexed)▪ Scheduled to be halved on 1/1/2026	<ul style="list-style-type: none">▪ 2025 – no change▪ 2026 - \$15,000,000	<ul style="list-style-type: none">▪ Effective 2026▪ Indexed starting 2027▪ Permanent

Select Income Tax Structure Provisions



Current Law	New Law	Duration
<ul style="list-style-type: none">▪ Individual income rates and brackets▪ Relaxation of AMT (Alternative Minimum Tax)▪ Elimination of Personal Exemptions▪ Increased Standard Deduction▪ Cap on debt for mortgage interest deduction at \$750,000▪ No miscellaneous itemized deductions (other than educator expenses)	<ul style="list-style-type: none">▪ All extended with only one change▪ Standard Deduction further enhanced for 2025	<ul style="list-style-type: none">▪ Effective 2025/2026▪ Indexed starting 2026▪ Permanent

State and Local Tax Deduction (SALT) Cap



Current Law	New Law	Duration
<ul style="list-style-type: none">▪ \$10,000 cap▪ Cap expires end of 2025▪ IRS has blessed certain “pass through entity” workarounds	<ul style="list-style-type: none">▪ Raised to \$40,000, subject to a phase-down between \$500,000 - \$600,000▪ Limited (PTET) workaround permitted	<ul style="list-style-type: none">▪ Effective 2025▪ Deduction and phase-out to be adjusted by 1% per year beginning 2026▪ Temporary through 2029▪ Reverts to \$10,000 in 2030

Qualified Business Income Deduction



Current Law	New Law	Duration
<ul style="list-style-type: none">Section 199A, Qualified Business Income, introduced in 2017 to balance reduction of corporate tax rates for non-corporate businesses	<ul style="list-style-type: none">20% deduction maintainedExpanded phase-in range of limitations for specified service trades or businesses (SSTBs)<ul style="list-style-type: none">a) For non-joint filers, range expanded to \$75,000 (from \$50,000), starting \$197,300 of taxable incomeb) For joint filers, range expanded to \$150,000 (from \$100,000), starting at \$394,600 (taxable income)Minimum QBI Deduction: A new minimum QBI deduction of \$400 for taxpayers with at least \$1,000 of QBI from one or more active businesses in which they materially participate	<ul style="list-style-type: none">Effective 2026PermanentIndexed starting in 2027

Qualified Small Business Stock: Section 1202 Partially Modernized



Current Law	New Law	Duration
<ul style="list-style-type: none">▪ Section 1202, Qualified Small Business Stock, excludes 100% of capital gains up to the greater of \$10 million or 10x basis on sales of qualifying shares of stock in a QSB (C corp. with less than \$50 million of assets) held for 5 years.	<ul style="list-style-type: none">▪ No change for QSBS acquired before July 5, 2025▪ For shares after July 4, 2025:<ol style="list-style-type: none">1. \$15 million or 10x basis2. QSB size limit of \$75 million3. Exemption<ul style="list-style-type: none">- 50% if held for >3 years;- 75% if >4- 100% if 5 or longer	<ul style="list-style-type: none">▪ Permanent▪ For tax years beginning after July 4, 2025▪ Indexed starting in 2027

Qualified Opportunity Zones: Permanent Extension, Decennial Refreshment, and Simplification



Current Law	New Law	Gain on Gain
<ul style="list-style-type: none">▪ Section 1400-Z, Qualified Opportunity Zones, defers capital gains taxation on gains invested in an OZ or OZ Fund within 180 days	<ul style="list-style-type: none">▪ Deferral on investments made before 1/1/2027 taxable no later than 12/31/2026▪ Deferral on investments made after 12/31/2026 taxable on earlier of disposition and 5 years▪ Enhanced basis of 10% if held for 5 years (30% if designated rural zone)▪ New Zones designated by Governors every 10 years, beginning 2027	<ul style="list-style-type: none">▪ If investment held for more than 10 years, gain will be treated as basis▪ If held for more than 30 years, only gain to year 30 is accreted to basis

New – Auto Loan Interest Deduction



Current Law	New Law	Duration
<ul style="list-style-type: none">Auto loan interest deduction not deductible	<ul style="list-style-type: none">“Above the line” deduction for up to \$10,000 of interest on certain vehicle loans (US made passenger vehicles)Phases out beginning at \$100,000/\$200,000	<ul style="list-style-type: none">Effective 2025Temporary through 2028

New – No Tax on Tip Income



Current Law	New Law	Duration
<ul style="list-style-type: none">▪ Tip income taxable	<ul style="list-style-type: none">▪ “Above the line” deduction of up to \$25,000 for cash tips received by an individual who works in an industry that customarily receives tips▪ IRS has 90 days to publish qualifying industries (preliminary list excludes attorneys)▪ Phases out beginning at \$150,000/\$300,000	<ul style="list-style-type: none">▪ Effective 2025▪ Temporary through 2028

New – No Tax on Overtime Pay



Current Law	New Law	Duration
<ul style="list-style-type: none">▪ Overtime pay taxable	<ul style="list-style-type: none">▪ “Above the line” deduction of \$12,500/\$25,000 for qualified overtime pay▪ Limited to overtime pay:<ul style="list-style-type: none">a) Required under Section 7 of the Fair Labor Standards Actb) The amount of pay greater than the regular rate of pay▪ Phases out beginning at \$150,000/\$300,000	<ul style="list-style-type: none">▪ Effective 2025▪ Temporary through 2028

No Tax on Social Security?



Current Law	New Law	Duration
<ul style="list-style-type: none">▪ Social Security Benefits potentially taxable, depending on other income	<ul style="list-style-type: none">▪ No change▪ In lieu, an increased \$6,000 standard deduction for taxpayers 65 and over▪ Phases out beginning at \$75,000/\$150,000	<ul style="list-style-type: none">▪ Effective 2025▪ Temporary through 2028

HSA and 529 Plan Changes



Current Law	New Law	Duration
<ul style="list-style-type: none">▪ HSA – House bill expanded qualified expenses▪ 529 Plans allow for certain expenses for public, private and religious elementary and secondary schools and education loan repayment (up to \$10,000 per year)	<ul style="list-style-type: none">▪ HSA expansion dropped▪ 529 expanded:<ul style="list-style-type: none">a) Tuition, curriculum, books, on-line costs, qualified tutors, standardized tests for college admission, dual enrollment, therapies for students with disabilities, and postsecondary credential programsb) Maximum increased to \$20,000 annually	<ul style="list-style-type: none">▪ Effective 2026▪ Permanent

Optional Money Accounts for Growth and Advancement (“MAGA”) a/k/a Trump Accounts for Minors



Funding Limits:

- \$1,000 – One-time government contribution if born in 2025 – 2028
- \$2,500/year – Employers annually can contribute to account owner or their dependent; not treated as taxable income
- \$5,000/year – Annual aggregate contribution limit (indexed starting in 2028) from most sources – *annual exclusion concern*
- No limit – rollovers from other Trump accounts and contributions from exempt organizations
- Limits are exclusive of contributions to other qualified plans
- No contributions permitted after the beneficiary has attained age 18

Investments:

- Limited to a mutual fund or ETF that tracks an established index of U.S. equities, without leverage, and with fees/expenses not greater than 0.1%

Distributions:

- Under 18, no distributions permitted
- Distributions taxed as non-deductible contributions into a Traditional IRA (earnings taxed ordinary income, potential for 10% early withdrawal penalty)



Available after July 4, 2026

Endowment Investment Income Tax for Large Universities

Assets per Student	Original House Bill	Enacted
	Investment Income Tax Rate	
> \$500,000 to \$750,000	1.4% (unchanged)	1.4% (unchanged)
> \$750,000 - \$1.25 million	7.0%	4.0%
> \$1.25 million - \$2.00 million	14.0%	
> \$2.00 million	21.0%	8.0%

- “Large Universities” now defined as private colleges/universities with more than 3,000 full-time equivalent students
- Original House bill proposed 500 or more full-time students

Endowment Investment Income Tax – Potential Impact

Institution	Endowment	Enrollment	Endowment Per Student	Current Tax Rate	Future Tax Rate
Princeton University	\$33.4 billion	8,946	\$3.8 million	1.40%	8.00%
Yale University	\$40.7 billion	16,416	\$2.3 million	1.40%	8.00%
Harvard University	\$50.7 billion	37,613	\$1.6 million	1.40%	4.00%
University of Notre Dame	\$17.0 billion	13,618	\$1.2 million	1.40%	4.00%
California Institute of Technology	\$3.6 billion	2,518	\$1.5 million	1.40%	0.00%
Amherst College	\$3.3 billion	2,017	\$1.6 million	1.40%	0.00%

Source: Forbes Magazine, “These 26 Rich Private Colleges Just Got a Tax Cut From Republicans,” July 5, 2025. Original Statistical Source: National Center for Education Statistics.

Implications: Private Colleges & Universities

- An Example: Harvard University (numbers rounded)

	Original House Bill	Enacted
Endowment Value (estimated)	\$50.7 billion ¹	
Net Investment Income @ 11.2%	\$5.68 billion	
Current Tax @ 1.4%	\$79.5 million	
Tax	\$1.19 billion (@ 21%)	\$227.2 million (@ 4%)
Difference in Tax Paid	+ \$1.11 billion	+ \$174.7 million

- Harvard's estimated endowment draw in FY2024: \$2.4 billion (roughly 5%)²
- Endowment generates less income in future years due to decreased size
- Endowment draw rate may need to increase to maintain endowment-funded initiatives (or university will need to cut expenses and/or initiatives)

¹ Forbes Magazine, "These 26 Rich Private Colleges Just Got a Tax Cut From Republicans," July 5, 2025. Original Statistical Source: National Center for Education Statistics.

² CNN.com, "Harvard has an endowment of over \$50 billion. So why do federal cuts of a few billion matter?" April 18, 2025.

Select New Income Tax Deduction Rules



Current Law	New Law	Duration
<ol style="list-style-type: none">1. PEASE limitations reinstated in 20262. No existing overarching limited on itemized deductions3. Charitable contributions<ol style="list-style-type: none">a) No “above the line” deductionsb) No floorc) Increased to 60% the limit for cash contributions to public charities	<ol style="list-style-type: none">1. Repeal extended2. Charitable contributions<ul style="list-style-type: none">▪ Individuals<ol style="list-style-type: none">a) Non-itemizers: \$1,000/\$2,000 “above the line”b) 35% maximum benefit (all itemized deductions)c) 0.5% floor (only deduct excess)▪ Corporations<ol style="list-style-type: none">a) 1% floor (only deduct excess)b) 10% cap retained	<ul style="list-style-type: none">▪ Effective 2026▪ Permanent

How the Floor for Individuals Who Itemize Works

A Simplified Example

	2025	2026
AGI (Adjusted Gross Income)	\$200,000	
Cash Donation	\$1,500	
Floor of .5%	N/A	\$1,000
Schedule A Deduction	\$1,500	\$500

- If the taxpayer makes such large donations that there otherwise is a charitable contribution deduction carry-forward, they also carry forward the floor amount.
- In the example above, that means the \$1,000 disallowed in 2026.
- If there is no carry-forward, the floor amount is lost and no tax benefit to the donor.

Impact of the 2017 and 2025 Tax Acts on Donations



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RELEVANT CHANGES

1. Standard Deduction almost doubled – so fewer itemize
2. Estate Tax Exemption increased – so fewer give to reduce estate tax
3. Lower Corporate Tax Rate retained – so fewer give to manage tax liability
4. In 2026
 - a) Non-Itemizer “Above the Line” deduction
 - b) Itemizers:
 - i. Giving Floor: 0.5% (individuals); 1% (corporations)
 - ii. Maximum Benefit: 10% cap for corporations; benefit of itemized deductions for individuals capped at 35%
 - iii. Enhanced 60% AGI limit for cash gifts to public charities retained

CHANGE IN TAXPAYER BEHAVIOR

1. \$20 billion less giving by individuals in 2018
 - a. 23 million switched to the standard deduction
 - b. They on average gave \$880 less*
2. Less benefit, especially starting in 2026
3. Call to Action - “Bunch” contributions
 - a. Establish a plan to manage income rates, phase-outs and deductibility
 - b. If don’t want to give all at once, use a DAF
 - c. This does impact charity cash flows, so discuss with them their needs

*Han, X., Hungerman, D. M., & Ottoni-Wilhelm, M. (2024, July). *Tax incentives for charitable giving: New findings from the TCJA* (Working Paper 32737). National Bureau of Economic Research. <https://doi.org/10.3386/w32737.tax rate>.

Financial Center for Crime Enforment Network (FinCEN) Updates

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WAIT, WHAT?



FinCEN Update #1: Corporate Transparency Act



“Interim Final Rule” issued March 21, 2025

Modifies the definition of “reporting company” to only include foreign reporting companies.

- All domestic reporting companies and their beneficial owners not required to file or update any BOI reports.
- Non-exempt foreign reporting companies still required to file BOIRs, but such reports are not required to include any beneficial owner that is a “U.S. person.”
- Foreign reporting companies that only have beneficial owners that are “U.S. persons” exempt.

FinCEN Update #2: New GTO for Southwest US



Effective March 11, 2025.

Geographic Targeting Order for 30 zip codes on the southern US borders of California and Texas.

- Why? To combat the illicit activities and money laundering of Mexico-based cartels, drug traffickers and other criminal actors along the Southwest U.S. border.
- What? Area money services businesses must file Currency Transaction Reports for cash transactions over \$200.
- Basis? “Deep concerns” over significant risks to the U.S. financial system posed by cartels, drug traffickers and other criminal actors along the Southwest border.

FinCEN Update #3: Real Estate Reg eff. December 1, 2025, postponed until March 1, 2026



Generally, settlement agents (can be the attorney) must report non-financed transfers of residential real estate.

Real Estate Report due no later of 30 days or final day of month following closing.
<https://www.fincen.gov/system/files/2025-09/RER-Form-508C.pdf>.

Needn't include TIN if not uniquely assigned to the transferee.

Exemptions include transfers (a) to trusts when transferor/spouse are settlor(s), and (2) resulting from owner's death.

FinCEN Update #4: New GTO for Parts of Florida (and CA, CO, CT, HI, IL, MD, MA, NV, NY, TX, VA, WA and DC)



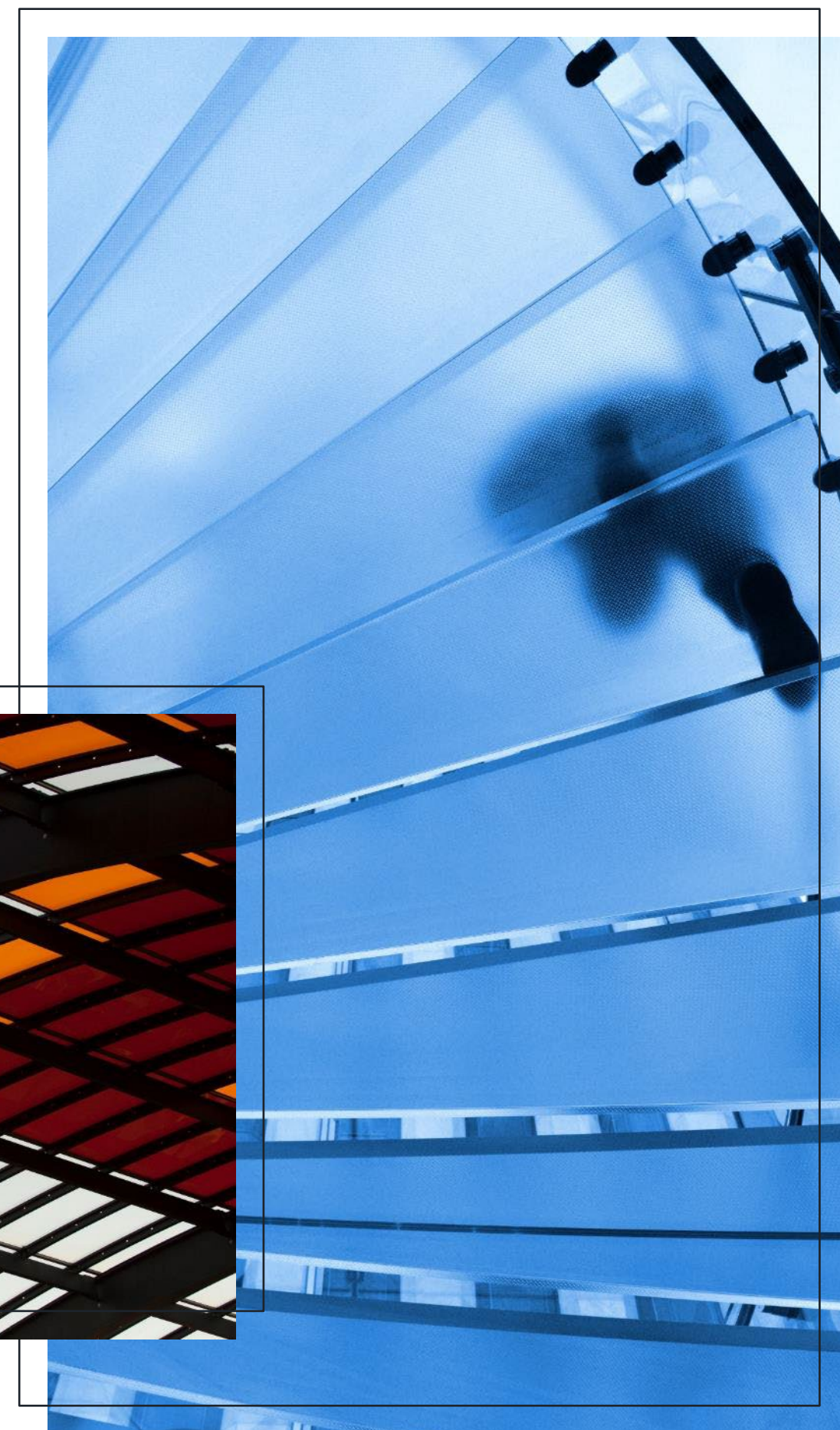
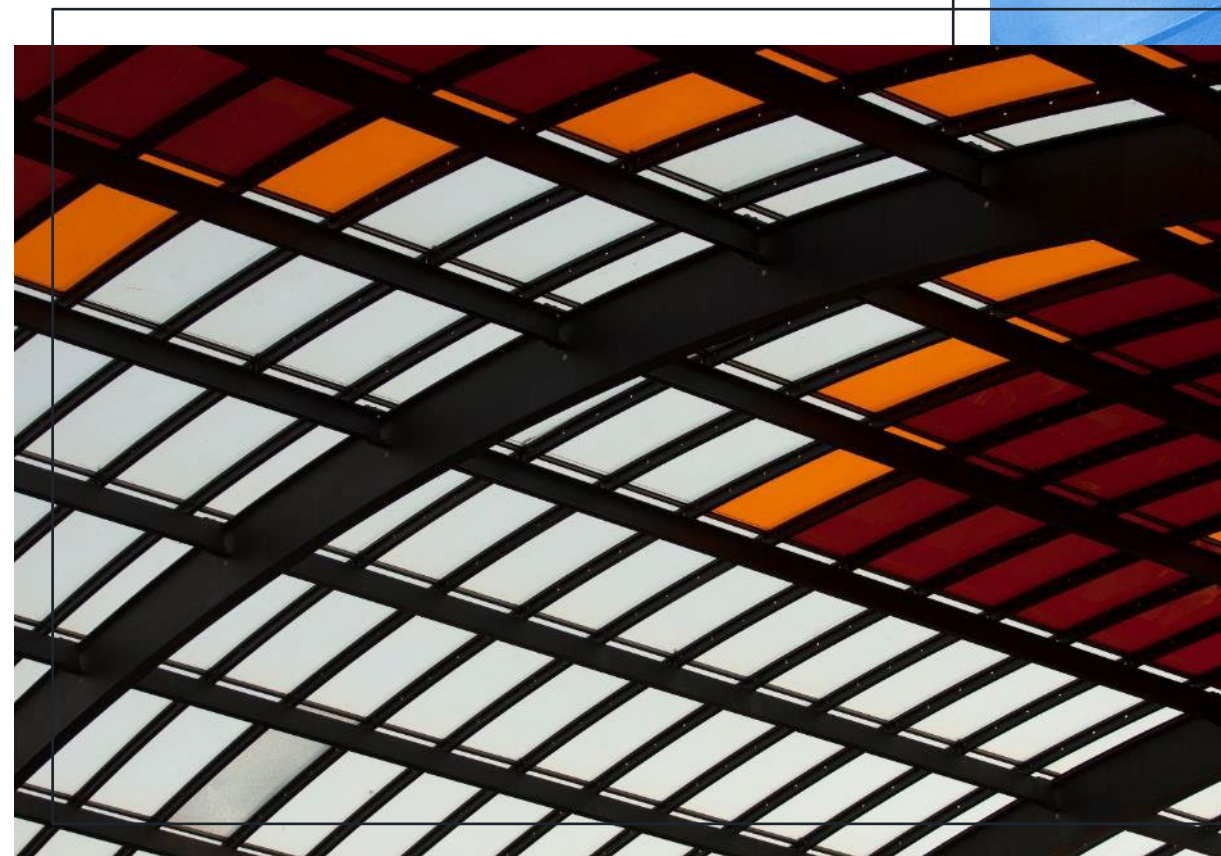
Geographic Targeting Order issued requiring US title insurance companies to identify the natural persons behind shell companies used in non-financed purchases of residential real estate.

When? April 15, 2025, through October 9, 2025 (why not December 1st?).

Where in Florida? Miami-Dade, Broward, Palm Beach, Hillsborough, Pasco, Pinellas, Manatee, Sarasota, Charlotte, Lee, and Collier counties.

- **What?** Purchase of a residential real property for \$300,000 or more (\$50k in Baltimore).
- **Who?** The purchaser is a corporation, limited liability company, partnership, or other similar legal entity (but not including trusts, natural persons, or U.S. publicly traded companies).
- **How?**
 - Purchased without a bank loan or other financing by an entity responsible for AML and SAR reporting
 - Any part paid with currency, cashier's check, certified check, traveler's check, money order, business or personal check or wire fund transfer

Recent Select Developments



IRC Section 170(f)(8) – Substantiation Requirements



1. **Less than \$250.** Must keep adequate records to substantiate the contribution. If the contribution is in cash, you must have a bank record or a receipt from the charity identifying the name of the charity, the date of the contribution, and the amount of the contribution.
2. **Between \$250 - \$500.** Must keep adequate records and obtain a receipt, called a Contemporaneous Written Acknowledgment (CWA)*, from the charity.
3. **Greater than \$500, but less than \$5,000.** All substantiation previously stated plus additional information as the Treasury may require. This essentially means meeting the requirements of the specific IRS form for income tax reporting and its instructions. For example, Form 8283 provides taxpayers with instructions on the information that must be provided for property donations, including basis in the property, and dates when the property was acquired and donated, and the method used to determine the fair market value. There are also specific substantiation requirements for vehicle, boat and airplane donations that are above \$500, including a CWA and a 1098-C, if sold by the charity.
4. **Greater than \$5,000.** All substantiation previously stated as well as a qualified appraisal that supports the value claimed for the donated property. Generally, the taxpayer must provide a summary of the appraisal.
5. **Greater than \$500,000 (\$20,000 for artwork).** Must attach the appraisal itself. An appraisal must be attached for a gift of a qualified conservation easement regardless of value. In addition to these requirements, the taxpayer must also obtain the signature of an authorized official of the charity on Form 8283.

* Indicates the amount of the cash and a description of any property other than cash contributed. The acknowledgment must say whether the organization provided any goods or services in exchange for the gift and, if so, must provide a description and a good faith estimate of the value of those goods or services. It must be received by the earlier of the filing of the tax return or the due date for the return, including extensions.

Case Study: Substantiation CWA Requirements



In 2022, I donated \$6,760 of non-cash items to a well-known charity. They provided a signed and dated receipt, but the area to list the items was left blank. I properly filed my 1040 with Form 8283. The IRS audited my return, and so I constructed a list of what I gave that day with the values for each item. Do I get my full deduction?

In another *pro se* case, *Besaw v. Commissioner*, T.C. Summary Opinion 2025-7, Docket No. 19222-22S (7/21/2025), the Tax Court believed the taxpayer donated the items to a qualified charity but held that he was not entitled to a charitable donation deduction for failure to comply with the substantiation rules of Code section 170(a)(1) because a reconstructed list is not contemporaneous.

Digital Asset Reporting Final Regulations



Proposed regs were issued in 2023 (44,000+ comments). Final regs published July 9, 2024, eff. September 9, 2024

- Form 1099-DA for custodial brokers and “middlemen” to report digital asset sales and exchanges starting 2025
- Realtors report when used for real estate purchases beginning in 2026
- Basis reporting delayed to 2026
- *De minimis* exceptions
 1. \$600 for sales of qualifying purchases of digital assets, qualifying stablecoins, and non-financial NFTs
 2. \$25,000 annual *de minimis* exception for qualifying stablecoin transactions
- Sellers can specifically identify which digital assets have been sold, allowing taxpayers to dispose of high-basis assets prior to disposing of low-basis assets. In the absence of a taxpayer identification, a broker must report dispositions on a FIFO (first-in, first-out) basis.
- Notice 2024-56, penalty relief in 2025 if broker makes good faith effort
- Notice 2024-57, six exceptions (wrapping, liquidity provider, staking, lending, short sales, and notional principal contract transactions)

Cryptocurrency, Non-fungible Tokens, and Other Alternative Assets



IRA Rules

- Funded with cash only, except via rollover. IRC §408(a)(1).
- Digital assets are not cash. IR Notice 2014-21 and as modified by Notice 2023-34.
- But can invest in cryptocurrencies as generally they are not prohibited assets
 1. Life insurance
 2. S corp stock
 3. Personal use real estate
 4. Collectibles

Treasury seeking comments for NFT regulations and in the meantime, announced a temporary “look through” rule for NFTs. Notice 2023-27.

401(k) Rules

- Funded with cash only
- IRA prohibited asset rules apply
- Employer has an investment menu fiduciary duty to:
 1. Provide at least three options (excluding employer stock)
 2. Ensure each has materially different risk/return characteristics
 3. Monitor allocation options

So, alternatives could be a potential investment to be included in the menu offered by the employer, but litigation risk.

Democratizing Access to Alternative Assets for 401(k) Investors

August 7, 2025, Executive Order providing 180 days for DOL to reexamine guidance on a fiduciary’s duties regarding alternative assets (specifically private equity, real estate, and digital assets).

Crypto Criminals Going Low Tech as Enhanced Interrogation Finds Bitcoin



Cybercrime has left the screen as ransomware, phishing, and SIM-swapping have now evolved into physical threats.

Why? Crypto is the perfect target: anonymous and non-reversible transfers; no middlemen or clawbacks; large sums can be moved instantly; victims often have no recourse — and criminals know it; and social media oversharing reveals wealth and location

High-risk behaviors include public crypto holdings or NFT collections, visible wealth (cars, travel, social media), and speaking at crypto events. Vulnerability factors include using cold wallets at home, a single point of failure (e.g., spouse knows passphrase), and no family/staff training.

Think about where the keys are stored and who has access. Also, consider whether kidnapping and ransom insurance should be acquired.

Risk Mitigation Strategies begin with strong security practices, such as:

1. Don't store seed phrases at home — use vaults or custodians
2. Split access among trusted parties or jurisdictions
3. Use duress wallets (a duress wallet is one seeded with a small amount of value that can be “given up” when under duress)
4. Restrict access via time-locked wallets
5. Reduce public exposure of wealth
6. Train household members & staff on response plans

Signs of the Times - Smiley Faces in Serious Places: Emoji Based Litigation

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Artificial Intelligence



- 1. Reactive AI:** Processes data along specific rules/algorithms; pattern recognition or mimic. Examples: Autofill on an on-line form and chess.
- 2. Narrow AI:** Can perform a single task well, but nothing else. Examples: Siri and Alexa.
- 3. Limited memory AI:** Can store and use past data to make decisions and improve performance. Example: self-driving cars.
- 4. Predictive AI:** Uses statistical analysis and machine learning to predict future events. Examples: Amazon and Netflix.
- 5. Generative AI:** DOB - 11/30/22 (release of ChatGPT). Uses generative models to create new content, including text, images, videos and audio. Often based on large amounts of data such as large language models. Examples: In excel, when I error on a formula, it offers, "May I fix that for you?" "Without further ___" or "peanut butter and ___".

What Comes Next?!?



LLM Gen AI = word predictor!

ChatGPT Prompt: Do you hallucinate?

“Yes, AI models like me can "hallucinate" in the sense that we sometimes generate information that is inaccurate, misleading, or entirely fabricated, even though it might sound plausible. This happens because my responses are based on patterns in the data I was trained on, and I don't "know" things the way humans do. Instead, I generate responses based on probabilities derived from a vast amount of text.”

5 Pro Tips on Constructing Prompts



1. Set the Role or Context: Tell AI who it is supposed to be (lawyer, teacher, reporter, comedian, etc.) or what the output is for.

Example: *"You are a financial journalist writing for a general audience."*

2. Define the Task: Be explicit about what you want (explain, summarize, draft, rewrite, compare, create, etc.).

Example: *"Summarize the main points of this article in 200 words."*

3. Specify the Audience & Tone: Say who the writing is for and how it should sound (formal, professional, humorous, client-friendly, etc.).

Example: *"Write a client-friendly explainer for high-net-worth individuals."*

4. Give Structure or Constraints: Word limits, formats, style, or even "use bullet points vs. paragraphs."

Example: *"Limit to 700 words, with 3 headings and a closing call-to-action."*

5. Add Examples or Style References: Give a sample line, metaphor, or title you like.

Example: *"Use a playful pun in the title, like 'Alphabet Soup: When Acronyms Leave a Bad Taste.'"*

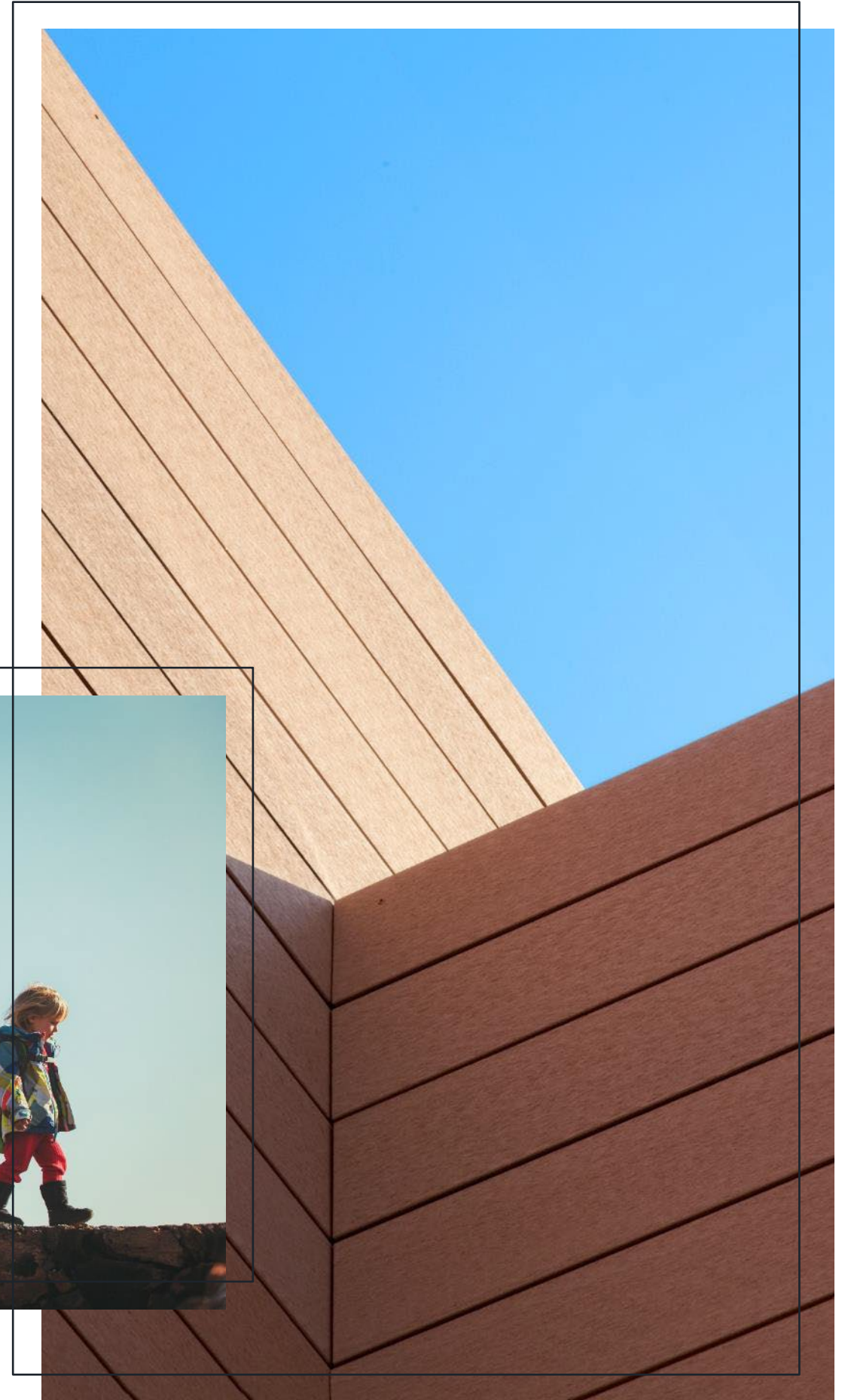
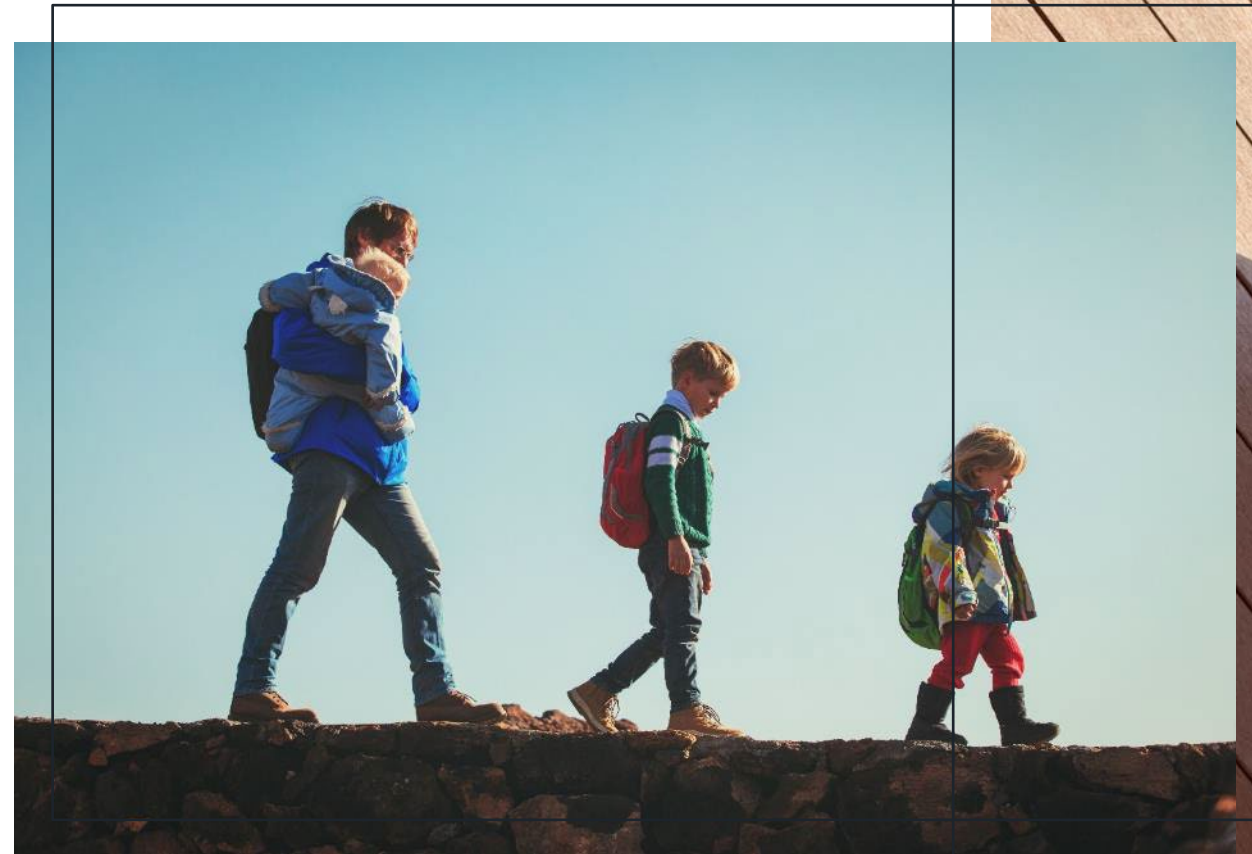
Sgt. Phil Esterhaus (Michael Conrad) on the TV series *Hill Street Blues* advised:

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“Hey remember...let’s be careful out there.”



Thank You



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