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# Tax & Estate Planning Opportunities



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# Tax & Estate Planning Opportunities

- Background - Tax Cuts & Jobs Act of 2017
- What was expiring/sunseting
- One Big Beautiful Bill
  - Provisions, Changes, New Items
- Examples, Case Studies
- Questions

# Background

- Tax Cuts & Jobs Act of 2017
  - Doubled Estate Tax Exemption
  - Cut Corporate Tax Rate from 35% to 21%
  - Created 20% QBI Pass Through Deduction - offset for partnerships & flow throughs
  - Removed Personal Property from 1031 Exchanges
  - Increased Bonus Depreciation to 100% (phased out by 20% until 2026)
  - Imposed SALT Limit of \$10k
    - Previously, no limit
    - Negative impact on taxpayers in high tax (typically blue) states (CA, NY, NJ)

# Expirations

- When the TCJA was passed, several of these provisions were set to sunset at the end of 2025 including:
  - Estate Tax Exemption - cut in half to \$7m per person
  - QBI 20% Deduction - to 0%
  - Bonus Depreciation - to 0% by 2027
  - Individual Rates - reverted to higher pre-TCJA rates (39.6% top rate)
  - Standard Deduction - lower

# One Big Beautiful Bill

- Narrowly Passed, but Passed
- Great for Real Estate Investors, Landowners, etc
- Addressed “Sunsetting” provisions:
  - Estate & Gift Tax Exemption - \$15m per person in 2026, indexed for inflation
  - 100% Bonus Depreciation - placed in service after 1/19/25 (Inauguration Day)
  - 20% QBI deduction is now Permanent
  - Opportunity Zone Program - Permanent & Changes - see next slide
  - SALT Cap Increase - \$40k
- New Program:
  - Qualified Production Property Deduction - see next slide
- Didn't Change:
  - 1031 Exchanges
  - Estate Tax Rate

# Estate & Gift Tax

	TCJA (Previous)	If no change	OBBB (Now)
Per Person Estate Tax Exemption	\$13.99m in 2025	around \$7m in 2026	\$15m in 2026
Annual Gift Exclusion	\$19k Recipient in 2025	No Change	No Change

# Opportunity Zones

- Now Permanent - previously had sunset date of Dec 31, 2026.
- 10% Step up in basis after five years of holding investment
- No change to Substantial Improvement requirement (100%)
- New Category = Qualified Rural Opportunity Funds
  - Previous OZ's were in metro areas
  - This category incentivizes investment in rural opportunity zones & rural communities
  - What is a "Rural OZ?"
    - "any city, town, or census tract with a population of less than 50,000, excluding tracts that are adjacent or contiguous to a city with a population over 50,000"
  - 30% basis step up after five years - compared to normal 10%
  - Substantial improvement Hurdle = 50% of the original basis - compared to normal 100%

# Bonus Depreciation

- TCJA inacted:
  - 100% bonus depreciation for 2018-2022
  - 80% bonus depreciation for 2023
  - 60% bonus depreciation for 2025
  - 40% set rate for 2026 & future
- OBBB = 100% for property placed in service after 1/19/2025 (Inauguration Day).  
Permanent.
- What qualifies?
  - useful asset life of 20 years or less per IRS categories
- Normal rule - commercial property has useful life of 39 years
- Perform cost segregation study to allocate overall building value to individual components (lights, landscaping, electrical, walls, etc) with shorter useful lives = eligible for bonus

# Qualified Production Property

- Theory = This supports the tariff initiatives of this administration. If we are going to move manufacturing back to the states, we need to provide tax incentives for developers & users to invest in warehouses & production facilities
- Immediate expense the full cost of a building
- Must be involved in manufacturing, production, or refining of a tangible product.
- Excludes non production areas of property (ex: offices, admin, parking lots, etc)
- Can be New Construction
- Can be Existing Purchases if certain criteria are met
- This rule INCLUDES AGRICULTURE PRODUCTION
  - Buildings used to canning, storage, refining, packing, processing, etc could be eligible
  - If you are building a new facility, building, etc - please discuss this with your CPA.

# Farm Sale Tax Payment Plan

- Effective July 4, 2025, there is a new deferral option for qualified farmland sales
- Can now pay capital gains tax in 4 equal annual installments for sales beginning after July 4, 2025
- Certain Restrictions:
  - Must have been farmed in prior 10 years
  - Restricted from non-farming use for the 10 years after the sale
    - Must stay in ag for 10 years.
  - Sale to a qualified farmer (individual actively engaged in farming)
    - Encourages next generation of farmers

# Georgia Transfer Tax

- This is an income tax withholding, not a real estate transfer tax.
- It applies to non-residents selling real property in Georgia, including individuals, trusts, partnerships, and corporations.
- The standard withholding rate is 3% of the purchase price, but can be based on the seller's recognized gain if they provide a sworn affidavit.
- The buyer is responsible for withholding the tax and remitting it to the Georgia Department of Revenue.
- The seller must still file a Georgia income tax return to reconcile their tax liability and claim credit for the amount withheld
- Exemptions:
  - Transactions where the purchase price is less than \$20,000.
  - Sales of a principal residence, if the gain is exempt from federal income tax.
  - Foreclosures or transfers in lieu of foreclosure with no additional consideration.
  - Transactions involving certain government agencies or organizations

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# Tax Strategies & Planning Opportunities

# Example - 1031 Exchange, Estate Exemption

- Case Study - older, large landowner couple sold a property for \$70m - basically minimal tax basis (assume \$0).
- Pay 23.8% capital gain tax (\$16,660,000) or do 1031 Exchanges?
- If they purchased \$70m of 1031 commercial replacement property, receive cash flow (5-7%) each year. If they held onto the replacement property until their death, their heirs would receive a step up in basis to FMV on the date of death. They could then sell the asset shortly thereafter, and pay little or no gain on the sale. The value of the assets would be subject to estate taxes, but the couple's lifetime estate tax exemption (\$30m in 2026) could be used to offset.

# Example - In Life Use of Exemption

- Met with a family in Central Florida last week.
- Own 165 acres in the heart of industrial & residential development. Fast growing, valuable asset. Goal = move fastest growing assets out of the taxable estate by using the lifetime exemption during one's life.
- Parents owned it - affluent from other business ventures.
- When the TCJA was passed & estate exemption doubled, mom established a trust & put this property in the trust.
- She used her lifetime estate tax exemption while alive, so that the growth of the property over the last 7-8 years would occur outside of the taxable estate (which it has, significantly.)
- Now, her son is going to sell it and will receive the proceeds without having to pay any estate taxes on the value of the property, and the estate will not owe estate taxes on the appreciation.
- Giving assets, in particular real estate that's appreciating, while you're alive is a great way to maximize the estate tax exemption (let them grow outside the taxable estate).

# Bonus Depreciation - Normal

- Purchase Production Facility for \$2m
- Value of purchase allocated 20% to land (\$400k), 80% to improvements (\$1.6m)
- Perform a Cost Segregation Study to allocate the \$1.6m across different portions of the building - any assets with a 20 year useful life or less qualify for 100% bonus depreciation.
- Based on other Cost Segregation studies we've performed, that would mean roughly 35% of the value of the improvements is eligible for 100% bonus depreciation.
- So, of the \$1.6m allocated to improvements, roughly \$560k is eligible for 100% depreciation which equals roughly a \$196,000 cash savings on taxes in year 1.

# 1031 Exchange & Bonus Depreciation & Cost Segregation

- Sold land for \$10m that you purchased for \$5m. Rather than pay tax, do 1031 Exchange.
- Buy \$10m replacement property - a retail strip center - “mailbox money”
- New basis under 1031 exchange rules is \$5m (carryover), not \$10m
- Order Cost Segregation Study on the new building. Assume 20% to land, 80% to building & 35% of allocation of building is eligible for 100% bonus depreciation.
- Tax Savings: \$4m depreciable basis of building x 35% Eligible for bonus x 35% tax rate = \$612,500 savings.
- Tax Savings on 1031 = \$1,750,000 (\$5m gain x 35%)
- Total Tax Savings = \$2,362,500

# Qualified Production Property - Full Expensing

- Let's assume you are a farmer who needs to build a new facility for processing a commodity. You plan to build a 50,000 sf facility - 40,000 of that is dedicated to the processing/harvesting and 10,000 of that is designated to general storage & office space.
- The total construction project is going to cost \$4,000,000.
- For simplicity, let's assume 80% of the sf is eligible for being considered QPP (40k/50k sf) - this would allow us to write off 80% of the \$4m price (\$3.2m) immediately in year 1.
  - Would generate over \$1.1m in year 1 tax deductions via QPP Full Expensing
- QPP casts a much wider net than bonus depreciation.

# Annual Gifting Opportunities

- No major changes from the OBBB
- In 2025, annual exclusion is \$19,000 per recipient. A married couple can double this and give \$38,000 to each recipient without incurring gift tax or using any of your lifetime exemption (\$13.99m per person in 2025, \$15m in 2026).
  - A wealthy married couple could give \$38,000 to each of their children, and if that child is married, they could do the same to their spouse, their child (grandchild), etc.
  - None of these gifts would use up the lifetime exemption

# Maximizing “Step Up” in Basis

- The “Step Up” in tax basis at death to FMV is one of the simpler tax concepts that people fail to appreciate or utilize.
- Older (90+ year old) landowners who want to sell because they don’t want their kids to “have to deal with it.”
- Can leave their kids with up to 23.8% more money if they let their kids sell it post death.
- At death, heirs get a “step up in basis” to FMV on the date of death. If they want to sell it, in theory they should get FMV in the sale. Sale Price = FMV = no tax on sale.

# Legacy Nutrient Deductions

- Boa Safra Ag - one of our sponsors of this conference, specializes in Legacy Nutrient Deductions (performed over 5,000 reports in 49 states)
- PLR 9211007 - establishes criteria
- Depreciable basis for value of residual nutrients in the soil at the time of purchase or inheritance
- Invoices soil sampling & analysis, nutrient load analysis, etc
- Multiple ways to claim the deduction - some allow immediate expensing while others are amortized over a period of time
- Historically, an average deduction of \$1,700 per acre.
- Purchased property or inherited property in the last several years, this is worth considering and evaluating.
- Ex: Purchase a 500 acre farm for \$2,500,000. Perform Section 180G study & generate \$850,000 deduction (\$1,700/ac) = \$297,500 cash tax savings at 35% rate.

# DST = Delaware Statutory Trust

- A newer, different 1031 Replacement Property Option
- As opposed to individual 1031 property purchases, DST's allow you to own a portion of a larger investment fund ("Mutual Fund")
  - Diversification = Across asset types, regions, etc
  - Solves Debt Issue on Replacement Property (ex: Sell \$1m, have \$500k of debt, in replacement purchase, must also have \$500k of debt)
  - Apply unused/excess funds into a DST
    - Ex: Sell property for \$2m, find individual 1031 replacement property for \$1.7m, invest remaining \$300k into a specific DST investment to avoid paying taxes
- Sponsor = Jennifer Sotelo, DSTs 1031 Investments

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# Questions?

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