

Big Beautiful Bill: What Estate-Planning Steps Make Sense Now?

The client's wealth level will be a major factor.



+1 [Martin M. Shenkman, Stuart M. Gladstone](#) and 1 more

July 9, 2025

6 Min Read

The One Big Beautiful Bill Act (OBBBA) is now law. While media attention has focused on the scores of income tax changes from liberalized qualified opportunity zones, qualified small business stock, expanded state and local tax deduction, research and development deductions, depreciation and more, the one change to the estate tax sounds pretty innocuous, but that may be deceptive. That change is to [make permanent a \\$15 million gift, estate and generation-skipping transfer tax exemption](#). That amount will be inflation-adjusted. This eliminates the worry that the exemption would be cut by half, which was the law before the OBBBA was enacted. That's somewhat more than the exemption would have been otherwise. But that one change belies the new estate planning considerations that advisors should consider. Clients with an unused exemption may choose to use it. But that, too, is a very simplistic and perhaps inadequate view.

Planning Varies by Wealth Level

One approach to evaluate what should be done now from an estate-planning perspective is to look at planning post-OBBBA from the lens of clients at different wealth levels:

- Very wealthy clients should continue to plan. Planning for the long term is vital for those who will be subject to the estate tax now and potentially a harsher estate tax if the law changes under a future administration. There's no assurance that at some point, the tax pendulum won't swing the other way, and an estate tax [like the one proposed by Bernie Sanders](#) may not be enacted. Very wealthy clients should therefore continue to plan for the long term by shifting wealth into flexible dynastic trusts. This means gifts to dynastic trusts, sales of assets to freeze lower values in their estates and the array of other planning techniques.
- Wealthy clients may not face estate tax under the current system but may do so if the tax laws change in the future. Planning for these clients may be prudent. But at these wealth levels, greater focus on assuring access to assets transferred to trusts, continued income tax planning and perhaps greater flexibility than had been done in the past might make sense.
- Moderate wealth clients may not need to worry about the estate tax, but other planning objectives, such as income tax savings post-OBBA and asset protection, can still be helpful to many and continue to provide a value add from estate planning. Too often, clients of moderate wealth levels aren't presented with planning options beyond using a revocable trust to avoid probate. That overly simplistic view will often underserve these clients.

Don't overlook planning for state estate and inheritance taxes. Consider that Washington state recently increased its marginal estate tax rate to 35%. Will other states follow suit?

Infusing Flexibility into Planning

The tax system has changed so often and in so many ways over the decades that infusing more flexibility into planning seems prudent for most clients. Some variations of the following might be considered in trusts that are used in that planning:

- Lifetime limited powers of appointment are rights given to people named in a trust to designate where the assets of that trust might be appointed.

These powers can be constrained in many ways, for example, limiting the exercise or direction only to descendants of the client or the client's ancestors or requiring the consent of a third party to the exercise. But a broader use of powers like this may be useful if the law changes in unforeseeable ways in the future or if other changes are needed.

- A trust protector is a position that's been used more recently in estate planning for complex irrevocable trusts to provide safeguards or more flexibility. For example, a trust protector may be given the power to remove and replace a trustee and to change the state governing law and situs of a trust. But it may be worth considering a broader use of trust protectors, especially in trusts for those of lesser wealth, to provide flexibility to their planning. Also, broader powers might be worth evaluating, such as certain rights to change the trust terms if the tax or other laws subvert the initial intent of the trust.
- A common planning approach for married couples is to use spousal lifetime access trusts. One spouse creates this trust for the other and perhaps for descendants. However, for clients below the current exemption levels, it may be desirable to consider shifting wealth for asset protection or income tax planning. This might mean including provisions that permit adding the settlor spouse back as a beneficiary or giving someone a limited power to appoint trust assets to the settlor. Broader, more robust planning like this may be preferable.

Trust Income Tax Planning Post OBBBA

Trust planning can be used to provide income tax results, even for or especially for lower wealth clients, post-OBBBA. OBBBA increased the standard deduction to \$31,500 for married filing joint taxpayers. That means most taxpayers won't itemize and, other than the \$2,000 above-the-line charitable contribution deduction for married taxpayers filing jointly, will get no tax benefit from contributions (OBBBA also added a 2/37 reduction in itemized deductions). If a taxpayer shifts investment assets to an irrevocable non-grantor trust (in which the trust, not the settlor, pays income tax on trust income), it may be possible to use

contributions to offset dollar-for-dollar taxable income and enhance the ability of the taxpayer to qualify for other OBBBA benefits. Say a taxpayer creates a trust to benefit their spouse, descendants and charities. If the trust pays portions of gross income to charity, the taxpayer will have shifted donations from their personal tax return to the trust. The trust can offset income on the passive assets it holds (for example, bonds and dividend-paying stocks) by the contributions. The taxpayer/settlor will still qualify for the entire \$31,500 new large standard deduction. That could result in significant income tax savings.

Also, many OBBBA tax benefits are phased out when income reaches specified levels. For example, certain taxpayers can take a tax deduction (the qualified business income deduction) of up to 20% of qualified income from pass-through entities. This substantial benefit is expressly limited to Specified Service Trades or Businesses (SSTBs). SSTBs include law, accounting, architecture and medicine. The benefit is phased out when SSTB income exceeds \$150,000 for a joint tax return (increased by OBBBA from \$100,000 under prior law). If the taxpayer shifts investment assets to a trust, it will reduce income and perhaps permit qualification. The new OBBBA benefits on tip and overtime income face similar phase-outs at specified income levels. So, shifting assets to an irrevocable trust may help secure those benefits as well. For moderate wealth taxpayers, this may mean a simple home state trust with a family member trustee to keep the costs of the planning to a minimum.

Finally, trusts can grant general powers of appointment to a family member with a modest estate to obtain a basis step-up on that individual's death. This can be an important income tax benefit.