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Episode - The private wealth landscape after OBBBA: what's changed!

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Carrie Falkenhayn: From Deloitte Tax, welcome to the Tax News and Views podcast. In this series, we talk to specialists from Deloitte about the latest business issues. I'm Carrie Falkenhayn, your host for Tax News and Views. And today, we're talking about the one big, beautiful bill Act. I'm going to call it OB3 today. But that was the tax act that was signed into law on July 4th of 2025, and it includes significant tax reforms. Today, we're going to focus specifically on those provisions aimed at individuals, and so joining me today, we have two of Deloitte's Washington National Tax Specialists focused on individual taxation. We have Katheryn Neely and Eddie Gershman. And Eddie, I'm going to start with you. With the passage of OB3 this summer, what kind of discussions are you having with clients?

Edward A Gershman: Sure, Hi, Carrie, thanks for having us here today. So, there's really 3 or 4 items, I guess, I'd like to focus on that we're talking about with our clients. One is just the concept of broad-based planning and how essential that is. OB3 really underscores the need for broad-based, multi-year planning. The interplay between provisions carries with it a lot of complexity, and planning for one item is likely going to impact another. So, it's really beneficial to look at planning broadly over a multi-year basis, and that's really another item that we're talking a lot with our clients about, and that's the concept of multi-year planning.

You know, tax planning needs to be looked at on a multi-year basis. We've been talking about that for years, and I would say, you know, it's even more critical now under OB-3, because what you're really looking at is two different tax laws. Much of the OB3 bill isn't applicable until 2026, so when you look at multi-year planning and whether some controllable event might occur this year versus next year. You're actually looking at different tax law for 2025 than 2026, because much of the OB3 isn't going to become law until 2026.

Another item that we're talking with our clients a lot about is just the concept of that there's not one size fits all. There's just not any universal answer to planning. Everybody needs to approach it individually based on their specific facts and circumstances, their goals and objectives, what they're controllable, deductions or events are, and it's a really critical approach that we think needs to be undertaken, which is just looking at your own tax situation specifically, and not thinking that there's just any one-size-fits-all planning that's going to apply to everybody.

Last thing again. So, what the last sentiment that we're talking a lot with our clients about is itemized deductions, and the reason for that is that OB3 introduced a lot of changes to itemized deductions that individuals are going to need to be aware of and mindful of going forward.

Carrie Falkenhayn: So maybe walk us through what some of those changes are for itemized deductions.

Edward A Gershman: Sure, there's probably 3 that I'd like to focus on. The first is the state and local tax deduction. I'll just call that SALT. And this is an interesting one, because it actually is effective for 2025. So, for 2025, the SALT cap is immediately increased from $10,000 to $40,000, but it's quickly phased down, so for individuals that make whose modified adjusted gross income exceeds $500,000, that $40,000 cap will begin to quickly reduce itself back to $10,000. It reaches that $10,000 threshold once your modified adjusted gross income is $600,000. The other item that we're talking a lot with our clients about for salt is that it actually is even though it's effective immediately, which is different than a lot of the other provisions we're going to be talking about, it also is temporary. It actually will sunset back and revert back to $10,000 beginning in 2030.

Another itemized deduction change that we're talking about with our clients is what I'll refer to as the 0.5% charitable floor. What that is, starting in 2026, you're only going to be able to deduct your charitable contributions that exceed .5% of your adjusted gross income. So, if your adjusted gross income is $500,000, let's say, the first $2,500 of your charitable deductions aren't going to be deductible if you itemize your deductions. It's really a brand new hurdle for individuals that they haven't had to address historically, and I do think it's going to change how people address their charitable planning going forward. And just to give you some concept or some idea of how changes might occur. I think you'll see people consider accelerating their charitable contributions from future years into 2025, because, like I said, the floor for this charitable deduction change is going to be effective in 2026. So, people may want to consider getting ahead of their charitable planning by accelerating deductions into 2025. And then once the calendar turns to 2026,

I think you'll see that people may consider bunching their charitable contributions into a year instead of spreading their deductions over multiple years, just to limit the impact of the floor. So, instead of spreading deductions evenly over several years, you might see people group them into one year to mitigate the impact of the floor. So, for example, beginning in 2026, maybe you would give away $10,000 annually to charity over, let's say, 5 years. So, you would lose, if your adjusted gross income is $500,000, you would lose $2,500 of each of those donations. But you could consider, instead of giving the $10,000 annually over 5 years giving $50,000 in one year, and then you would only run into the floor that one year and lose $2,500 that one time instead of the five times in the prior example. There are other issues people would need to think through, like the cash flow implications, for sure, but it is something I think people will consider in order to mitigate exposure to the floor. From a big picture perspective, though, as people think about their charitable deductions, their charitable planning, I would say just keep in mind that a deduction subject to the floor in 2026 could still be more valuable than a deduction that's not subject to the floor in 2025, because it's based on what the income is going to offset, right? So, if I accelerated deductions into 2025, hoping to avoid the impact of the floor, that charitable deduction was going to offset capital gain income, which is taxed at 20%, that deduction could be less valuable than a deduction that I would incur in 2026 that would be subject to the floor if that deduction offset ordinary rate income. And that just gets back at the importance of modeling.

It's really critical that people model this out, like I said, over a multi-year basis. And then also for charitable planning, I would say one other thing that people might consider going forward this has been in the law for quite some time.

It's the idea of qualified charitable distributions, and that's where an individual who's over 70 and a half can utilize their IRA, their individual retirement accounts, to make direct charitable gifts to charity from their IRA. Like I said, it's been around for a long time, many people have been using it for years when you do a direct contribution from your IRA to charity, it's not an income tax event to you, and it's not a deduction.

So, it sort of has no impact whatsoever. And that's one of the reasons people like it. And going forward, one of the benefits would be, once the floor is in place, if it's not a deduction that you claim on your return, then it's another way that you would avoid being exposed to the charitable floor. One point to make also, as people consider bunching their deductions or accelerating their deductions, to the extent they aren't interested in giving the money directly to charity at that time, leveraging donor-advised funds or things of that nature could be helpful in that planning. And then the last item I'll mention from an itemized deduction perspective is that there is now a phase-out of your itemized deductions, and how that will work is that beginning in 2026, your itemized deductions are going to be reduced by the lesser of 2 37ths of your total deductions, or 2 37ths of the amount that your taxable income exceeds where the 37% bracket begins. And taxable income from that perspective also adds back your itemized deductions. But nonetheless, to the extent your income exceeds where the 37% bracket begins, you will see a reduction of your itemized deductions equal to, most likely, 2 37ths of the itemized deductions.

That may not sound like a lot, 237s, but it's actually nearly 5.5%. So, it can be quite substantial, and something I think people will consider as they plan for their itemized deductions. And in terms of considering that, I think, again, you'll see people that might contemplate accelerating their itemized deductions into 2025 in order to avoid impact of the 237's phase-out.

So, in terms of how that might change, your itemized deduction planning going forward, you might see people consider accelerating their itemized deductions in order to avoid impact of the phase-out. And you also might see, beginning in 2026, people considering how they might actually no longer be a taxpayer that itemizes their deductions.

Carrie Falkenhayn: Eddie, you just described a lot of change, right? You described changes to the state and local tax, you described this whole, 0.5% AGI floor for charitable deductions, you described just the phase-out, the overall phase-out of itemized deductions for certain individuals. that's a lot of change. So, what are some considerations, that people should be taking into account for, as they approach how they're going to itemize their deductions? I know you mentioned some, but just kind of big picture, what should they be thinking about?

Edward A Gershman: I think one of the things people are going to think about beginning in 2026 is, do they need to be an itemized deduction taxpayer? Because, as we talked about, the deductions that people are going to incur will be subject to, if they're charitable contributions, the 0.5% floor.

And then overall, your itemized deductions subject to the 2 37's phase-out. And for people that have itemized deductions historically, it may be hard for them to envision not itemizing their deductions, but it might actually be easier than you think. So, for example, you know, your state and local taxes that are due in early 2026, maybe your fourth quarter tax payments, or potentially real estate taxes, those are items you could consider accelerated into 2025. You'd have to keep the salt cap in mind when you consider that, but nonetheless, it is something that would be available for acceleration, potentially. We already talked about charitable contributions, how somebody might actually accelerate those. In 2026, and beyond, if your adjusted gross income is high enough, you're really only going to be able to deduct $10,000 of your SALT, of your state and local taxes. So when you look at a $10,000 state and local tax deduction, you look at maybe only occasionally having charitable contributions because you're accelerating or bunching them, maybe you've paid off your house or don't have a mortgage, right? So, there's no mortgage interest expense. You may actually see that it is easier than you might expect to not itemize your deductions, and then to benefit from your, from the standard deduction, and only be subject to the haircuts and the phase-outs occasionally instead of every year. Modeling hair is going to be super critical, something that people really need to consider. And again, you also have to kind of keep in mind, when you are looking at deductions, whether you're accelerating them or deferring them, subject to the cap, not subject to the cap you still want to look at, well, what's the income that it's offsetting? Because that's really the benefit that's going to be driven, is that the value of the deduction is going to be based on the income that is offset, so an item that's going to offset capital gain income that's taxed at a tax preferential rate is going to potentially be of less value than an item that's going to offset ordinary income. So modeling is still going to be critical as people analyze how they're going to approach their itemized deductions going forward.

Carrie Falkenhayn: There's a lot to think about there. Kathryn, let's get you into the conversation. So, many of our individual clients have established trust, we have families that are administering estates. How do these changes affect trust and estates specifically?

Kathryn Neely: Yeah, thanks, Carrie. So, for those that may remember, the old P's limitation had a specific carve-out that trusts and estates were not subject to the limitation. However, this new itemized deduction phase-out doesn't have a similar carve-out, and so it does appear to apply to trusts and estates. That's a big change for all of us, really, and it means fiduciaries may need to be more proactive in their planning for itemized deductions. So, for example. Let's assume we've got an estate that's wholly benefiting a public charity. Before the OB3 rules, no tax would have been due, and the estate would have been allowed a full charitable deduction. But under OB3, despite the fact that all assets are intended to go to charity, it appears the tax would be owed because the charitable deduction would be limited. And the Senate Finance Committee's summary of the Act has confirmed this was the intention of the authors for trusts and estates to be subject to the itemized deduction phase-out, so it appears that it's meant to apply. However, it also appears that this rule would contradict a statutory provision allowing trusts and estates an unlimited charitable deduction, so we're going to need more guidance from IRS and Treasury on how this itemized deduction limitation will apply to the charitable deduction. But like Eddie was talking about earlier, we need to look at this itemized deduction, phase out for our trusts and estates as a whole, and all of the other deductions that might be included in that. So, if you're a trustee or an executor, I'd encourage you to keep a close eye on developments this area is involving, and new guidance could change the planning landscape. Like individuals, it's important to do broad-based planning for trusts and estates to consider how the limitations may impact their tax liability.

Carrie Falkenhayn: So, Kathryn, you talked about the long-term planning focus, and our clients have, goals around that. What are the headline changes under OB3 for estate and gift tax?

Kathryn Neely: OB3 now sets the estate and gift tax exemption at $15 million per person, index for inflation going forward. So, for married couples, that's $30 million between the two spouses.

And that's a significant increase, and this exemption is the total amount that a U.S. individual can transfer without paying gift and estate tax during their life or at death. So, this is a large increase from prior law, and it does provide a valuable opportunity for taxpayers to transfer assets out of their estate and help mitigate that estate tax. But I'd encourage taxpayers to keep in mind that this is an opportunity, not a guarantee. So, future legislation could adjust the lifetime exemption amount. So planning now is key. Any taxpayers who were waiting on the sidelines to see what would happen with the law change in OB3 now have some clarity to move forward with their wealth transfer strategies. We really encourage clients and taxpayers to focus on what's important to them with their estate planning and how they see their wealth being transferred. They should make sure that their estate plan reflects those goals and is updated periodically to reflect any changes in those goals.

Carrie Falkenhayn: So this increase in the exemption is significant. What kind of considerations are there for high-net-worth individuals?

Kathryn Neely: High net worth individuals have quite a few planning considerations with this increased exemption. We'd encourage them to continue their estate planning endeavors and explore thoughtful ways to use this new enhanced exemption amount. Moving assets out of an individual's estate now means that future growth will be outside of the donor's taxable estate, which can save significant estate taxes down the road. And one possible way to do that is to use a grant or trust. For example, funding a grant or trust with your exemption amount, and then selling low-value, high-growth assets to the trust can be effective, because that growth is transferred out of the donor's estate. Another is basis planning. Because the estate tax exemption amount is so high, many people in this country will not pay estate tax. And so, for those who don't anticipate a taxable estate, a special focus is going to be on this, basis planning. Assets held by an individual at death receive a stepped-up basis equal to their fair market value. So, heirs that inherit those assets have the ability to sell them those assets with little or no capital gains tax. Alternatively, if property is transferred prior to death and not included in the donor's estate, it will not get a step-up in basis, and so any appreciation from the date of the gift or transfer may be taxable to the beneficiary when the asset is sold or disposed of. For those that have already utilized their estate tax exemption and projected taxable estate, paying gift tax during life can be more cost-effective than paying estate tax. The estate tax is charged on the value of the individual's entire asset base, including the assets that are used to pay the tax, whereas the gift tax is just imposed on the amount of the gift. So paying gift tax during life can be a significant savings point for individuals who are anticipating paying the estate tax anyways. As with everything we've talked about today. We'd really encourage taxpayers to think about their estate plan and projected estate tax holistically, we'd encourage them to focus on their ultimate goals and make sure that all of the steps that are taken for estate planning, including which assets you decide to transfer or hold until your death, line up with that goal.

Carrie Falkenhayn: Well, certainly, there is a lot to think about in the individual estate and trust area because of OB3. Kathryn, Eddie, thank you so much for the discussion today. I'm sure our audience found it useful. And audience, if you'd like more information, go to Deloitte.com and search on OBBBA. There's a wealth of information there. As always, thank you so much for joining us, and we hope you join us next time. Until then, everyone continue to be well. Take care.

I'd like our audience to know our much-anticipated Private Wealth Guide is launching this November. And it will be packed with actionable insights and strategies for navigating this evolving landscape. So to stay connected, be sure to create your My Deloitte profile on Deloitte.com to receive personalized content, as well as early access to thought leadership, like the Private Wealth Guide. As well as invitations to exclusive events tailored to your interests. Again, go to your My Deloitte profile on Deloitte.com to get this set up.

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