



2025 Tax Update: A Panel Overview



Moderator

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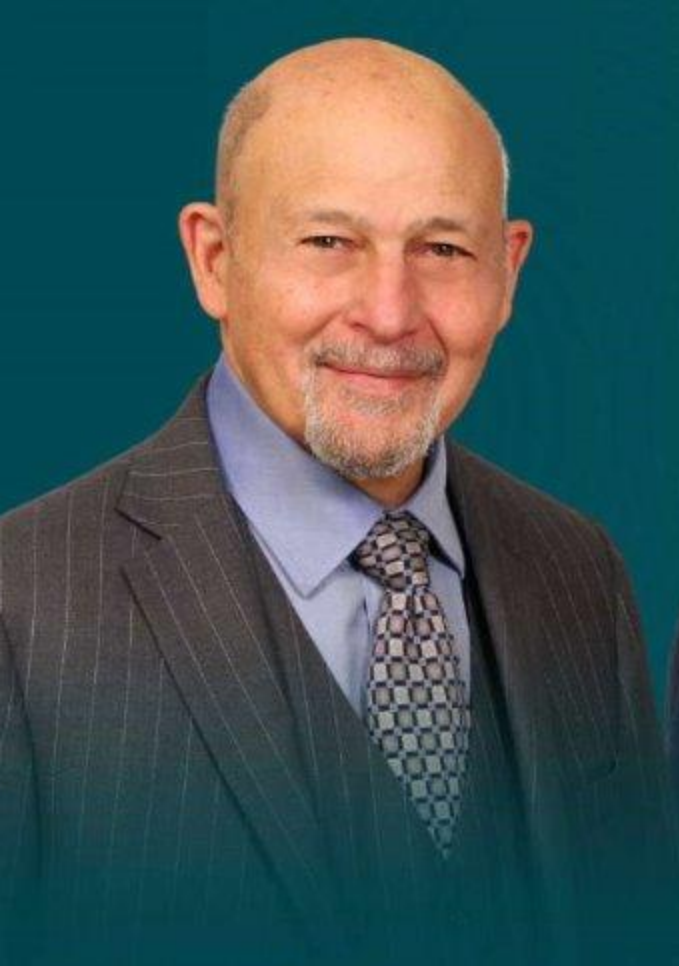
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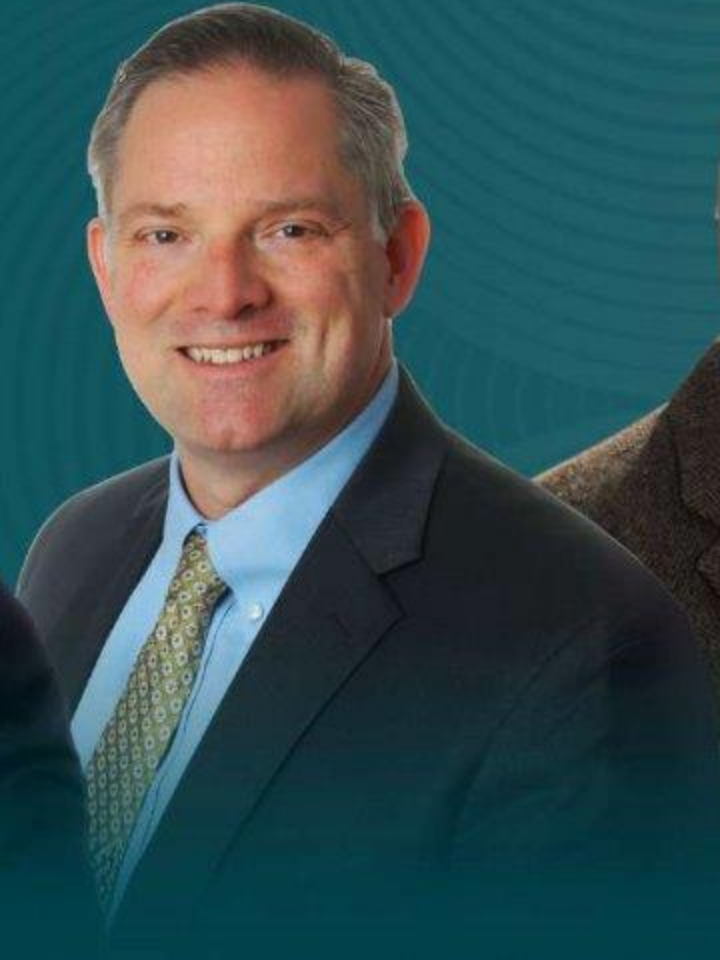
Panelists



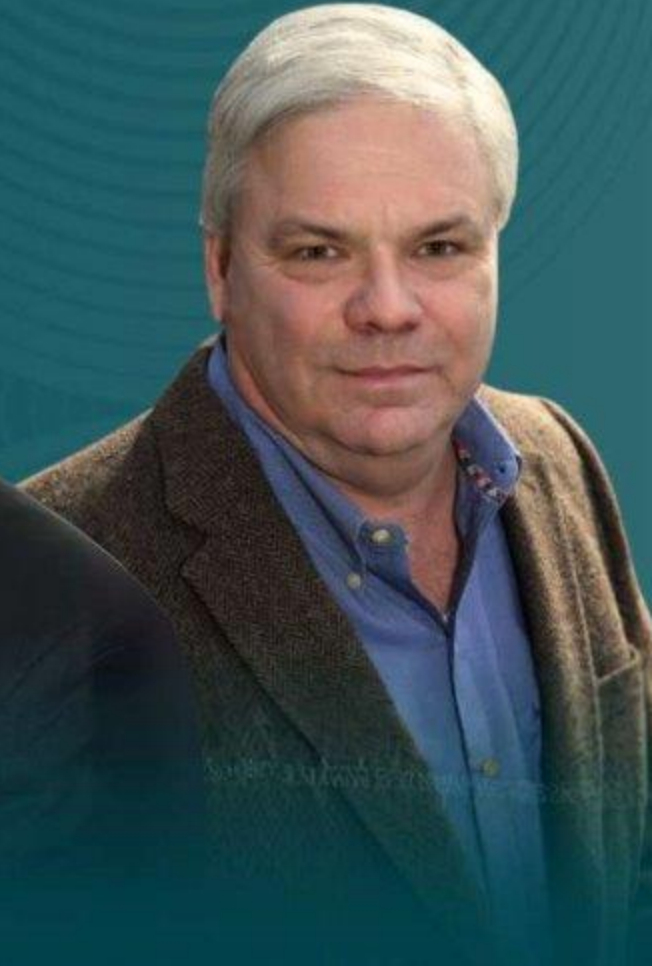
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PHIL DRUDY

Tips Exclusion

- **Deduction Amount:** Up to \$25,000 annually from federal taxable income
- **Eligibility:** Applies to employees in "customarily and regularly tipped" occupations
- **Phase-out:** reduced by \$100 for every \$1,000 MAGI
- **Types of Tips Covered:** cash, credit card, and electronic
- **Reporting Requirements:** Form W-2
- **Payroll Taxes:** Social Security and Medicare taxes still apply; only federal income tax is affected
- **Law Citation:** OBBA Section 70201

Overtime Exclusion

- **Deduction Amount:** Up to \$12,500 (or \$25,000 for joint filers)
- **Eligibility:** Applies only to FLSA-mandated overtime
- **Phase-Out:** reduced by \$100 for every \$1,000 MAGI
- **Reporting Requirements:** Form W-2 (or 1099 for nonemployees)
- **Law Citation:** OBBA Section 70202

Trump Accounts

- Are we required to call them Trump Accounts?
- How do these differ from a more traditional 529 account?
- How does it differ from a UTMA account?
- Are we really getting \$1,000 for free?
- What happens when the beneficiary reaches the age of 18?

Income Tax Changes

- Itemized Deductions
- Senior Deductions
- Social Security
- Pease Limitation

Education Expense Deduction

- No New Federal Deduction for Tuition and Fees
- Business Expense Deductions Unchanged
- Education Credits Unchanged
- Student Loan Interest Deduction Unchanged
- No OBBBA Provisions on Individual Education Deductions

Additional Expenses for 529 Plans

- General Rule
- Additional Qualified Expenses
 - Qualified Elementary and Secondary School Expenses increased to
 - 20,000 per year beginning after Dec. 31 2025
 - Certain Postsecondary Credentialing Expenses distributed after July 4, 2025
 - Tuition, Fees, Testing, Continuing Education Expenses.
 - Generally, any professional License issued or recognized by a state or the federal government.

Qualified Residence Interest Limitation

- The OBBA makes permanent
 - The 750,000 (375,000 Married filing Separately) limit on qualified principal residence acquisition indebtedness.
 - The exclusion of interest on home equity indebtedness
- Mortgage insurance premium deduction was reinstated for post Dec.31, 2025 payments subject to phaseout.

Q & A

New Jersey State Tax Updates

Shawn R. McClelland



Agenda

Select Overview of New Jersey Tax Law Updates

- Discuss some important updates not otherwise covered in this presentation
- NJ Stay Program/ANCHOR/Senior Freeze
- Selected Tax Increases – Sin taxes
- Qualified Small Business Stock

NJ Stay Program

- New Jersey's Continuing Attempts to Keep Current Residence in New Jersey
- Property Tax Credits for half of real estate property taxes up to a maximum of \$6500.
- Must be age 65 and over and have income below \$500,000.
- ANCHOR benefits and the Senior Freeze remain in place.



Sin Tax Increases

- Increase in the cigarette tax from 13.5 cents per cigarette to 15 cents per cigarette
- Increase on liquid nicotine products from 10 cents to 30 cents per fluid milliliter
- Unification of Gambling and Sports Betting taxes. Both now 19.75%. Previously online casinos were 15% and sports betting was 13%.



Qualified Small Business Stock

- The Federal Update on Section 1202 will be covered later in this program.
- Provides New Jersey taxpayers with a capital gain exemption on the sale of eligible small business stock.
- Five (5) year holding requirement along with Section 1202 requirements.



Break

New Jersey Mansion Tax: Implications for Sellers & Buyers

Martin D. Hauptman

What is Mansion Tax?

- New Jersey imposes an additional 1% transfer tax—commonly called the Mansion Tax—on certain higher-value real estate transactions. Historically:
- Applied to **Class 2 residential property** (1–4 family homes, condos, co-ops).
- Applied only when **consideration exceeded \$1,000,000**.
- **Paid by the buyer** unless negotiated otherwise.
- This 1% tax is on top of the standard RPTF transfer fees paid by the seller.

What Changed Under the New Law?

1. The Mansion Tax Now Applies to More Property Types

Beginning in 2025, the 1% tax applies not just to residential Class 2 properties, but also to:

- Commercial property (Class 4A)
- Industrial property (Class 4B)
- Apartment buildings with 5+ units (Class 4C)
- Vacant land (Class 1)
- Mixed-use properties
- Farm property with a residence (Class 3B)

The only major category excluded is farmland assessed under the Farmland Assessment Act.



What Changed Under the New Law?

2. The Threshold Is Lower in Certain Cases

While the \$1,000,000 threshold still generally applies, two changes matter:

1. Mixed-use and commercial properties use the same \$1,000,000 threshold.
2. Multiple parcels being transferred in a single deal must be aggregated to determine whether the \$1,000,000 threshold is exceeded.

This eliminates the ability to avoid the tax by splitting parcels into separate deeds.

What Changed Under the New Law?

3. New Filing and Enforcement Rules

- Mansion Tax must be paid at closing to record the deed.
- The Division of Taxation now has enhanced audit rights, particularly to ensure:
 - Proper classification of property
 - Proper aggregation of parcels
 - No artificial allocation of consideration to personal property to stay under \$1M



Who Pays the Mansion Tax?

Default rule: The **buyer** pays the Mansion Tax.

This is statutory, not contractual. Parties can negotiate otherwise, but doing so is rare and often complicates financing disclosures.



Examples Realtors Should Understand

Example 1 – Residential Home Sale Over \$1M

A single-family home sells for **\$1,250,000** in Hoboken.

- Property class: 2 (residential)
- Threshold exceeded: Yes
- Mansion Tax: 1% of \$1,250,000 = \$12,500
- Buyer pays at closing.



Examples Realtors Should Understand

Example 2 – Commercial Warehouse Sale

A warehouse sells for \$2,800,000 in Newark.

- Property class: **4B (industrial)**
- Previously **NOT** subject to the mansion tax
- Now, after 1/1/2025: subject to the 1% tax
- Tax: \$28,000 – paid by buyer.



Examples Realtors Should Understand

Example 3 – Mixed-Use Building With Apartments Over Ground-Floor Retail

- Sale price: **\$950,000**
- Property class: mixed use
- Below \$1M threshold → **no mansion tax**
- But if the same building sells for **\$1,010,000**, the tax applies.



Examples Realtors Should Understand

Example 4 – Vacant Land + Adjacent Parking Lot (Parcel Aggregation)

A developer purchases two adjoining parcels:

- Vacant land: \$650,000
- Parking lot: \$450,000

Separate deeds are used, each under \$1 M.

New law: Parcels must be aggregated if part of the same transaction.

Total: \$1,100,000 → subject to 1% (\$11,000).

This removes an old avoidance strategy.



Examples Realtors Should Understand

Example 5 – Apartment Building (5+ Units)

Apartment building with 12 units sells for \$3,500,000.

- Property class: **4C (apartments)**
- Previously exempt
- Now subject to the Mansion Tax
- **Tax = \$35,000**

This will affect many small to mid-sized New Jersey landlords.



Examples Realtors Should Understand

Example 6 – Sale of a Farm With a Residence

A farm with a farmhouse sells for \$1.4M.

- Property class: **3B** (farm with residence)
- **Now included**
- Mansion Tax = **\$14,000**



However—if the property qualifies fully as farmland assessed under the **Farmland Assessment Act**, it is excluded from the Mansion Tax.

Practical Tips

1. Anticipate Buyer Costs

Buyers need to understand the Mansion Tax early in the process, especially commercial and mixed-use clients who may not expect it.

2. Verify the Property Classification

Tax classification sometimes differs from how property is marketed. Use the Municipal Assessor's records to confirm classification.

Practical Tips

3. Watch for Parcel Aggregation

If a buyer is purchasing multiple parcels:

- Same parties
 - Same closing
 - Same contract
- The State will aggregate.



4. Avoid Improper Allocations

Allocating part of the price to “personal property” to drop below \$1M can trigger penalties. Allocations must be substantiated.

5. Prepare for Lender Requirements

Some lenders require confirmation of Mansion Tax payment before funding the loan.

Conclusion

The New Mansion Tax rules significantly expand the types of properties subject to the 1% tax and eliminate many prior planning opportunities. Realtors should be ready to:

- Identify when the tax applies
- Prepare buyers for the additional closing cost
- Understand how property classification and parcel aggregation affect the analysis

By guiding clients accurately, you can help avoid surprises at closing and ensure smoother transactions.



Introduction to the New Jersey Angel Investor Tax Credit

A Comprehensive Guide for Potential NJ Investors

Jason E. Marx



Agenda

- Overview of the Angel Investor Tax Credit
- 2. Legislative History and Policy Objectives
- 3. Company Eligibility – Technology Business Requirements
- 4. Investor Eligibility – Who Can Benefit
- 5. Step-by-Step Application Process & Logistics
- 6. Financial & Strategic Benefits for Investors
- 7. Impact and Value for NJ Companies
- 8. Key Considerations, Pitfalls, and Advisor Tips
- 9. Case Study & Economic Illustration
- 10. Action Plan for Advisors
- 11. Recent Data & Impact

What Is the NJ Angel Investor Tax Credit?

- A state-administered program—run by NJEDA and the Division of Taxation—providing a refundable tax credit for qualified investments in NJ emerging technology companies.
- Designed to stimulate capital formation, drive innovation, and strengthen New Jersey's economy by supporting early-stage businesses.
- Open to a wide range of investors, not just residents, as long as there is a NJ tax liability or return filed.



History & Policy Background

- Enacted in 2013 (P.L. 2013, c.14), retroactive for investments from January 1, 2012 onward.
- Initial credit: 10% of qualified investment, capped at \$500,000 per investment. Companies had to have fewer than 225 employees.
- 2019 expansion (effective 2020): Increased base credit to 20%, plus a 5% bonus for investments in certified M/WBE (Minority/Women Business Enterprise), Opportunity Zones, or low-income areas; annual program cap raised to \$35M.
- Pending legislation (as noted in NJEDA FAQs): Would further increase the base and bonus credits, reduce the employee cap, and target underrepresented groups.

Company Eligibility

Technology Business Requirements

- Must be a “New Jersey emerging technology business” as defined by NJEDA.
- Core requirements:
- Principal business located in NJ, actively doing business, with a physical presence (e.g., headquarters, R&D, office, or capital in NJ).
- At least 75% of full-time employees working physically in NJ.
- Fewer than 225 full-time employees (legislation may reduce this to 150).
- Actively engaged in one of the following in New Jersey: Qualified research expenses, pilot-scale manufacturing, or commercialization of eligible advanced technologies.
- Accepts only a non-refundable cash investment (or equivalent), held for at least two calendar years (exceptions apply for bankruptcy or acquisition).

Investor Eligibility

Who Can Benefit

- Open to individuals, trusts, estates, corporations, partnerships, LLCs, and qualifying investment funds (with at least 50% of assets invested in NJ companies).
- No requirement for NJ residency; open to nonresidents if they file a NJ return (can result in refund for individuals).
- Investments must be direct or through a qualified venture fund; indirect or “sidecar” arrangements must meet specific tests outlined in NJEDA FAQ.
- Application must be submitted within 6 months of the investment closing date—strict, no exceptions.
- Tax credit capped at \$500,000 per investor, per company, per year.
- For corporations, unused credits carry forward up to 15 years; for individuals, credits may be refundable if they exceed liability.

Application Process & Logistics

1. Both investor and company must separately register with NJEDA and set up their respective accounts on the Angel Investor Tax Credit Portal.
2. Investor initiates the application online within 6 months of the closing date.
The application will require:
 3. Details of the investment (amount, date, company, structure)
 4. Proof of investment (wire confirmation, canceled check, etc.)
 5. Investment agreement and related documents
 6. Company completes the business eligibility portion, which includes:

Application Process & Logistics

7. Attestation of physical NJ presence
8. Payroll and employee data (with backup—such as NJ-927 forms, W-2s, office lease, etc.)
9. Description of the technology and R&D activities (with supporting documents—project summaries, patent filings, or grant applications)
10. Proof that the investment meets the “nonrefundable, held for 2 years” rule
11. Pay the non-refundable application fee (\$500 for investments $\leq$ \$50,000, \$2,500 for $>$ \$50,000). If the credit awarded is over \$50,000, an approval fee applies as well (5% of the credit or \$2,500, whichever is greater).
12. NJEDA reviews the application:
13. May request additional documentation or clarification

Application Process & Logistics

14. Typical review time: 30-60 days, but can vary based on application volume and complexity
15. Upon approval, NJEDA issues a tax credit certificate. The investor will use this certificate to claim the credit when filing their NJ tax return for the tax year in which the application was approved (not necessarily the investment year).
16. Note the annual program cap: If total credits applied for in a year exceed \$35M, NJEDA may allocate credits for the next calendar year, potentially delaying benefit realization.
17. Maintain all supporting documentation for audit and compliance purposes.

Benefits to Investors – Financial Impact

- Direct reduction in NJ tax liability (or cash refund for eligible individuals).
- Substantially lowers net cost for high-risk, high-reward investments.
- Carryforward option for corporations (up to 15 years); refund option for individuals.
- Accessible to nonresidents and international investors filing a NJ return.
- Can improve project IRR, making investment more attractive compared to other jurisdictions.



Benefits to Companies – Growth, Visibility, and Diversity

- Attracts capital that is patient, motivated, and potentially more readily deployed due to the tax incentive.
- Bonus credits facilitate access to funding for certified MWBE businesses, Opportunity Zones, and low-income areas—helping address capital gaps.
- Program eligibility acts as a “stamp of quality,” enhancing company credibility with investors.
- Can be highlighted in fundraising materials as a competitive advantage.



Key Considerations, Pitfalls, and Advisor Tips

- **Application deadline is strict**—six months from closing—no exceptions or extensions.
- **Annual cap:** Credits are limited to \$35 million per year. Applications after this may be deferred.
- Company eligibility is **dynamic**—recheck at each investment round (employee count, NJ presence, qualifying technology).
- **Deal size:** The maximum credit per investment is \$500,000, any amount above this cap is not incentivized.
- **Complex structures** (funds, syndicates) require more diligence—always confirm with NJEDA if in doubt.
- Monitor **legislative and policy changes** via NJEDA and state government updates.
- **Coordinate with tax professionals** to ensure clients file the correct forms and claim credits properly.

Case Study – Economic Impact Illustration

Investment	Base Credit (20%)	Bonus Credit (25%)	Net Cost	Potential IRR Impact
\$500,000	\$100,000	\$125,000	\$375,000	+1–3% (typical for high-risk deals)

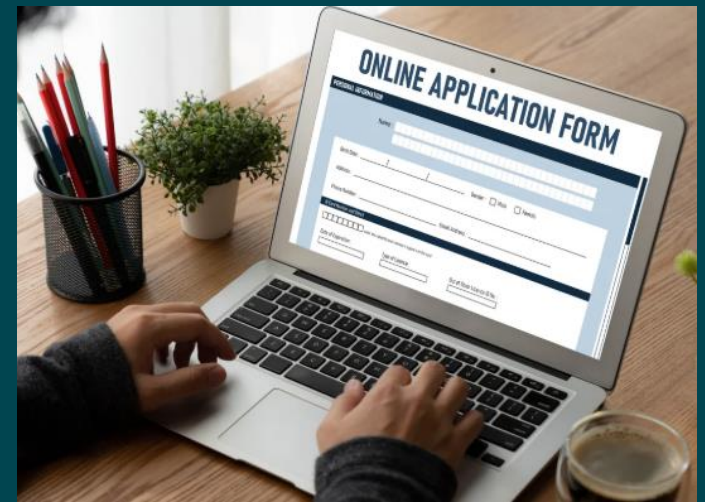
Implementation Steps for Advisors

- **Assess client profile:** Confirm tax status, investment horizon, risk tolerance, and portfolio fit.
- **Collaborate with target company:** Pre-qualify with NJEDA, gather employee and activity documentation, and confirm eligibility.
- **Structure the investment:** Equity or eligible instrument, non-refundable, two-year hold period.
- **Track critical dates:** Closing, application filing, and annual program cap.



Implementation Steps for Advisors

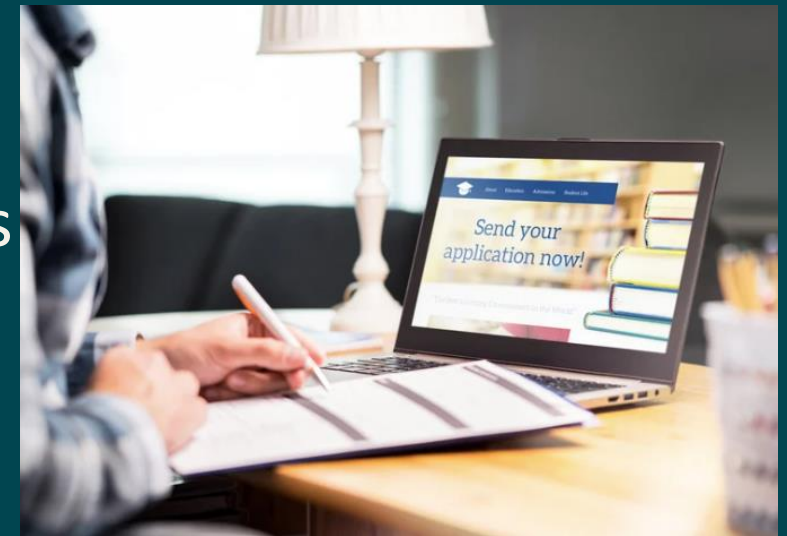
- **Assemble and submit application:** Organize all transaction, employment, and technology documents for a smooth review process.
- **Coordinate with client's legal and tax advisors:** Ensure all required forms are filed for credit realization.
- **Monitor for program changes:** Legislative or administrative modifications may affect eligibility or timing.
- **Support planning for exit and future rounds:** Advise on credit interaction with long-term tax and liquidity events.



Recent NJEDA Program Activity

(2023 Data)

- 207 investor applications approved in 2023.
- Over \$8.2 million in credits awarded for that year.
- \$63.2 million invested into 28 NJ emerging companies.
- Since inception: Approximately 2,900 investments and \$872 million in capital supporting 141 companies.
- Major sectors: Life sciences, information technology, clean-tech, and advanced manufacturing.



Legislative Amendments for 2026

- Program award amount will increase from **20%** to **35%** with a possible 5% increase to 40%
- Max employees will go from 225 to 150
- Maximum cumulative total of \$25 million in any calendar year
- Value of any unused tax credits from the Technology Business Tax Certificate Transfer (NOL) Program shall be added to increase this maximum cumulative total annually



Resources & Next Steps

- **NJEDA Angel Investor Tax Credit Portal** and FAQs (for the latest program rules and forms)
- **Direct contact:** NJEDA Angel Tax Credit Team (email and phone listed on NJEDA website)
- **New Jersey Division of Taxation** – for guidance on filing and claiming credits
- Subscribe to **NJEDA alerts** for legislative updates



Section 1202 Update

Martin D. Hauptman



Agenda

1. Background: What Section 1202 Used to Provide
2. The One Big Beautiful Bill: What Changed?
3. Examples Illustrating the New Rules
4. Practical Takeaways
5. Conclusion

What Section 1202 Used to Provide

- Before OBDD, Section 1202 allowed eligible taxpayers to exclude **100% of gain** on the sale of QSBS acquired after September 27, 2010
- The limit was the greater of:
 - **\$10 Million** or
 - **10 times the taxpayer's basis** in the stock
- This benefit applied **per issuer** and **per taxpayer**, which through trusts and gifting allowed families to multiply exclusions dramatically
- Gifting QSBS to children or to separate non-grantor trusts was an extremely common planning strategy

The One Big Beautiful Bill: What Changed?

- Before OBBB, Section 1202 allowed eligible taxpayers to exclude **100% of gain** on the sale of QSBS acquired after September 27, 2010
- The limit was the greater of:
- \$10 Million or
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1. Reduction of the Exclusion Percentage

- The headline change is simple:
- For stock sold after the effective date, the exclusion drops from **100% to 50%**
- The 75% exclusion category is eliminated
- Only early QSBS- sold before the effective date or meeting narrow transition expectations- remains the 100% exclusion
- This effectively doubles the capital gain tax cost for most QSBS exits going forward. The 28% alternative tax rate § 1202(a)(3) continues to apply to the taxable portion



2. Sharply Limited Gain Limitation Rules

Previously, each taxpayer had their own \$10 million exclusion or 10 x basis limitation. OBBA introduces three major changes:

- **New Unified Exclusion Cap:**
 - The exclusion is now applied **once per issuer**, not per taxpayer. If stock is transferred, the **original holder's cap carries over**
 - So, instead of each child or each trust getting \$10 million exclusive, the **entire family shares a single \$10 million bucket** for the issuer



2. Sharply Limited Gain Limitation Rules

- **Elimination of "10 x Basis" Rule for Most Taxpayers:**

- The most cases, the 10x basis calculation is repealed
- The remaining exclusion is generally the flat \$100 million per issuer, and only once

- **Transition Rule:**

- Grandfathering applies only if a written binding contract to acquire the QSBS existed before the bill's introduction date – very few taxpayers qualify



3. Gifting and Anti-Abuse Rules

- This is the area with the **greatest practical impact** on estate planners, founders, and the venture-backed companies
- OBBA adds the following restrictions:
 - **Transfers by Gift No Longer Create New Exclusions:**
 - Under prior law, gifting QSBS to a child is a non-grantor trust created a new taxpayer and therefore a new \$10 million limit
 - Under OBBA:
 - ✓ **Donee steps into the donor's shoes**
 - ✓ **And receives no separate exclusion amount**
 - A family cannot multiply the exclusion simply by dividing ownership among multiple people or trusts

3. Gifting and Anti-Abuse Rules

Trusts Aggregated With Grantor and Family Members:

- For purposes of the \$10 million per-issuer cap:
 - Grantor trusts are treated as owned by the grantor (same as before), **but now**
 - Non-grantor trusts **are also aggregated** with the grantor and grantor's spouse and children
- Thus: Ten non-grantor trusts = **one combined exclusion**, not ten exclusions



3. Gifting and Anti-Abuse Rules

Anti-Abuse Rule for Pre-Sale Transfers:

- If QSBS is gifted within **three years prior to a sale**, the exclusion is denied entirely unless the donor retains substantial economic exposure
- This eliminates "deathbed gifts," "pre-sale planning," and most late-stage trust funding



4. New Reporting and Recordkeeping Requirements

- Issuers and shareholders now have **annual reporting obligations**
- **Issuer Reporting:**
 - They met the **\$50 million gross assets test**,
 - They satisfied the **active business requirement**, and
 - They did not engage in **tainted redemptions** under § 1202(a)(3)



4. New Reporting and Recordkeeping Requirements

- Failing to file causes loss of QSBS eligibility for all shareholders for that year
- Shareholder Reporting:
 - Taxpayers claiming the exclusion must attach:
 - Detailed acquisition documentation,
 - Holding period evidence,
 - Issuer certifications, and

Failure to file results in **denial of the exclusion**, regardless of substantive eligibility

Examples Illustrating the New Rules

Example 1: Founder Sale

- Founder owns QSBS worth \$25 million
- Under old law: \$10M exclusion at 100%
= \$10M tax-free
- Under new law: \$10M exclusion at 50%
= \$5M tax-free; \$20M taxed
- Total tax-free benefit is cut in half, and taxable gain nearly doubles



Examples Illustrating the New Rules

Example 2: Gifting to Children

- Founder gifts \$30M of QSBS stock to three children
- Old Law: 3 children x \$10M = \$30M exclusion
- New Law: all four aggregated --> **one \$10M total exclusion**, at 50%
- Effective tax savings drop from potentially \$30M -> **\$5M**

Examples Illustrating the New Rules

Example 3: Multiple Trust Planning

- Founder creates 10 non-grantor trusts and gifts QSBS to each
- Under old law: 10 trusts x \$10M = \$100M exclusion
- Under new law: all 10 trusts aggregated --> **one \$10M exclusion**
- Estate planners must rethink QSBS strategies entirely



Practical Takeaways

- QSBS planning is **no longer an estate-planning multiplier**
- Most clients will need updated projections, valuation models, and documentation practices
- For existing QSBS with significant appreciation, evaluate **grandfathering** and **transition relief** immediately
- For new entities, QSBS remains valuable but dramatically less so



Conclusion

In summary, the One Big Beautiful Bill significantly reshapes Section 1202. While QSBS continues to provide meaningful tax benefits, especially for start-ups and emerging companies, the ability to multiply or maximize those benefits has been curtailed. Estate planners, founders, and investors need to revise strategies and carefully track compliance

Estate Planning After OBBA 2025: Traditional Techniques or New Focus?

Jason E. Marx

Estate Planning After OBBBA 2025:

Traditional Techniques or New Focus?

- Permanent increase of federal estate, gift and GST tax exemptions to approx. \$15 million per individual (and ~\$30 million per married couple) indexed for inflation.
- No change in the 40% top rate on estate/gift/GST tax base.
- Portability election preserved between spouses.
- Others: retention of step-up in basis at death remains unchanged.
- Other trust/estate tax changes: e.g., elimination of miscellaneous itemized deductions for trusts/estates (retroactive) etc.

Estate Planning for Spouses:

Key Considerations

- Unlimited marital deduction still applies for transfers to surviving spouse.
- Portability of deceased-spouse unused exclusion (DSUE) continues — surviving spouse may add first-to-die's unused exclusion.
- Need timely filing of Form 706 to elect portability.
- Beware state-level estate tax regimes (states do not allow portability).



Portability & The Rowland Case:

A Wake-up Call

- In Estate of Rowland (T.C. Memo 2025-76), the Tax Court disallowed the DSUE of the first spouse because the Form 706 return was not “complete and properly prepared” despite being filed.
- Key facts: First spouse died 2016; return filed after extended deadline and without full valuations; surviving spouse’s estate then tried to claim the DSUE.
- Lesson: Portability is not automatic; timely and accurate filing required.
- Implication: Even with the higher \$15 m federal exemption under OBBBA, a wasted DSUE could mean tens of millions in lost shelter for couples with large estates.

Are “Formulas” in Wills and Trusts Still Reliable?

- Many traditional estate plans used formula clauses in wills/trusts: e.g., “max out the estate tax exclusion amount” to a trust or to spouse.
- With OBBBA permanently raising the exclusion, older formulas may become outdated or trigger unintended results.
- Potential pitfalls: formulas tied to dollar amounts, not inflation-indexed amounts; failure to update trust language may lead to over- or under-funding of bypass trusts.
- Review existing wills/trusts for: (a) correct drafting of formula language, (b) compatibility with new exclusion levels, (c) state law changes or decoupling.

Do Trusts Still Make Sense? If So, Which Types?

- With the higher exclusion amount, fewer estates will owe federal estate tax — but that does not mean trusts are irrelevant.
- Trusts still provide many benefits beyond tax avoidance: asset protection, creditor protection, control over distributions, planning for blended families, state-tax planning, generation-skipping tax (GST) optimization, basis planning, and more.



Do Trusts Still Make Sense? If So, Which Types?

- Focus on trust types still relevant:
 - Irrevocable Grantor Trusts (e.g., SLATs, IDGTs) for lifetime gifting and growth outside the estate.
 - Spousal Lifetime Access Trusts (SLATs) — still useful for married clients.
 - GRATs (Grantor Retained Annuity Trusts) — especially for clients expecting high appreciation.
 - Dynasty trusts/generation-skipping trusts — especially given GST exemption still relevant.
 - Non-Grantor Trusts (discussed later) for SALT stacking and separate taxpayer status.
- Consider state-law trusts for state-tax sensitive clients.

Basis Rules & Planning Under OBBBA

- The step-up in basis at death remains unchanged under OBBBA. Trust Planner+1
- Planning implications: heirs receive assets at fair market value at date of death — capital-gain built-in appreciation prior to death evaporates for income tax basis purposes.
- Even with high exemptions, consider basis-step-up opportunities (e.g., owning appreciated real estate, private business interests) when death planning.
- For lifetime transfers, be mindful: gifts carry donor's basis (carry-over) and do not receive a step-up at the recipient's death.
- Consider toggling timing of gifts vs. transfers at death depending on asset growth projections and intention for basis step-up.

Non-Grantor Trusts in Estate Planning Under OBBBA

- The OBBBA includes increased State & Local Tax (SALT) deduction caps (temporarily) which encourage use of multiple non-grantor trusts (each trust allowed separate SALT deduction cap) for high state-tax clients.
- Non-grantor trusts are separate taxpayers, which allows for certain planning advantages (income shifting, separate AGI thresholds, perhaps higher SALT deduction cap per trust).
- **But caution:** the IRS may aggregate trusts that are substantially similar so the advantage can be challenged.
- **Use cases:** high-net-worth clients in high-tax states (e.g., New Jersey) may use non-grantor trusts for tax mitigation and estate planning.

Use of General Powers of Appointment (GPAs) in Estate Planning

- A general power of appointment allows a donee to appoint trust assets to themselves, their creditors, or their estate — causing inclusion in the donee's estate or other tax consequences.
- Historically used in flexible trusts, overfunded trusts, or to preserve basis step-up at death of donee.
- Under OBBBA, with high exclusion amounts, use of GPAs needs re-evaluation: is inclusion in the donee's estate still acceptable or desirable?
- For ultra high net worth clients, a GPA may be used strategically: e.g., allowing child to hold GPA over trust assets, prompting inclusion (step-up) but later removal, etc.

Traditional Estate Planning Techniques: Still “Right Choice”?

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- For ultra high net worth clients, a GPA may be used strategically: e.g., allowing child to hold GPA over trust assets, prompting inclusion (step-up) but later removal, etc.

Considerations for High Net Worth (HNW) & Ultra High Net Worth (UHNW) Clients

- Although the federal exclusion is higher, many HNW/UHNW clients still exceed it — or may exceed state-level estate tax thresholds — so planning remains imperative.
- For UHNW, strategies may include: large lifetime gifting (to lock in growth outside the estate), multiple trust structures (IDGTs, GRATs, dynasty trusts), valuation discounts, business succession planning, cross-border issues, state tax shipping/estate residency planning.



Considerations for High Net Worth (HNW) & Ultra High Net Worth (UHNW) Clients

- **Integrate non-tax objectives:** asset protection, inter-generational transfer, philanthropic goals, family governance, creditor/defendant risk for business owners.
- **Review state and international tax implications:** some states have much lower exemption thresholds or no portability; global clients may have foreign tax risks.
- **Given OBBBA's higher exclusion,** some clients may postpone certain gifting or trust funding; but for ultra-appreciative assets or business interests, the growth-outside-estate argument remains strong.

“Should Clients Focus on Different Considerations?” – New Emphasis Areas

- Emphasis shifting from merely “avoid federal estate tax” to broader goals: basis step-up, flexibility/control, creditor protection, state tax planning, governance and family dynamics.
- Timing: With higher exclusion, clients may decide when to transfer (gift now vs. death) based on growth outlook and basis planning rather than just tax prediction.
- Consider state and local implications: residence, domicile, cross-state holdings, state estate tax thresholds, portability/decoupling.

“Should Clients Focus on Different Considerations?” – New Emphasis Areas

- **Monitoring legislative risk:** although OBBBA made the federal exclusion permanent, future Congresses could reduce it — so planning should include “what if” scenarios.
- **Simplification:** For clients well below thresholds, simpler planning (revocable trust + pour-over will + power of attorney + healthcare directive) may suffice; avoid over-engineering.



How Traditional Techniques Should Be Adapted Given OBBBA

- Review and update all existing wills/trusts to ensure formulas reference current/future exclusion amounts and are drafted for inflation-indexed values.
- Consider whether lifetime gifting should be accelerated or delayed based on asset growth, valuation discounts, basis planning, and exclusion utilization.



When It May Be Appropriate to Simplify

- **Reassess bypass trusts and marital deduction trusts:** in some cases funding the bypass trust at first death may no longer be required; but for clients above state thresholds or with other objectives, it still may make sense.
- **Expand planning to include non-tax goals:** asset protection, business succession, family governance, state tax, basis step-up.
- **For non-grantor and grantor trusts:** evaluate cost/benefit given client size, state, asset types, and SALT/other tax opportunities under OBBBA.

Summary & Action Steps

- OBBBA 2025 permanently raises federal estate/gift/GST exclusions and thereby changes the planning landscape.
- Traditional estate-planning techniques remain valuable, but their rationale shifts: from purely tax avoidance to broader wealth-transfer, basis, control, protection, state tax and growth considerations.
- For married clients: ensure portability election is intact and properly filed; review formula clauses; ensure spousal planning is up to date.



Summary & Action Steps

- For trusts: continue to use as appropriate (irrevocable grantor, dynasty, non-grantor, GRATs, etc) but tailor to client's full objectives and cost/benefit.
- Emphasize basis planning, state tax planning, trust architecture, non-grantor trusts for certain high tax-state clients, and governance/asset protection for HNW/UHNW families.
- Review existing estate-planning documents now (don't wait): update formulas, confirm assets, coordinate with business succession and family governance.
- For smaller estates: consider simpler plans, but still perform regular review.

Q & A



Let's Continue the Conversation.

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