The Kiplinger Tax Letter

100 years

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Dear Client: Washington, Aug. 28, 2025

HIGHLIGHTS

Benefit Plans Private equity

Preparers Data theft

SALT Write-off Recent changes

Estate & Gift Tax 2025 amounts

Tax Disputes Tax Court petitions

IRS Multilingual tax forms

529 plans are a great college savings option. And surprise...they aren't just for college. Let's review some key features of these plans.

Contributions to 529 plans are treated as gifts to the beneficiary, so generally you can't contribute more than the annual gift exclusion amount each year... $19,000 in 2025...per beneficiary. But there's a twist. You can bunch up to five years of 529 contributions. If you do this in 2025, you can contribute $95,000. You'll be treated as gifting $19,000 to that beneficiary in 2025 and in each of the next four years...2026-29.

You can't deduct contributions to 529 plans on your federal tax return. But many states give residents a deduction or credit on state tax returns.

Distributions from 529 plans used for college are tax-free. Eligible expenses include the cost of room and board for students enrolled at a college or university at least half-time, tuition, books, supplies, fees, computers and internet access. 529 funds can cover off-campus housing, food and utilities, but the tax-free payout can't exceed the room and board allowance included in the school's cost of attendance.

529 funds can also be used tax-free for certain apprenticeship programs. The cost of many postsecondary credentialing programs is now 529-eligible.

529 plans can help pay for K-12 education as well. Tax-free payouts of up to $10,000 per year per beneficiary ($20,000 per year beginning in 2026) can be taken from 529 accounts to pay tuition for elementary and secondary schools. The "One Big Beautiful Bill" has expanded this tax break, so that tax-free payouts can also cover the costs of materials for curricula and online studying, books, educational tutoring, fees for advanced placement tests or college admission exams, and educational therapies performed by a licensed provider to students with disabilities. This OBBB easing begins with distributions from 529 accounts made after July 4, 2025. Note that tax-free 529 payouts cannot be made to cover homeschooling expenses. Also, not all states treat payouts for K-12 schooling as tax-free for state-tax purposes.

What if the beneficiary opts to skip college or a credentialing program... Or there is leftover money? There are options for the unused 529 funds:

Pay off college debt of the account beneficiary. Up to $10,000 from 529s can be used for this without having to pay federal income tax on the withdrawal. It's important to note that this $10,000 is a lifetime limit, not an annual limit.

Roll over money to a 529 account for another family member's education.

Transfer funds to an ABLE account for a disabled beneficiary or sibling.

Some 529 funds can be rolled over tax-free to a Roth IRA for the beneficiary in a trustee-to-trustee transfer, subject to many rules. There's a lifetime $35,000 cap. The 529 account must have been open for at least 15 years, with the same beneficiary. 529 payins made in the prior five years can't be rolled over. Annual rollover amounts can't exceed the yearly contribution limit for Roth IRAs, which is $7,000 for 2025.

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CLEAN ENERGY Popular green-energy tax breaks are ending soon, thanks to the OBBB. The tax credit for buying a new or used electric vehicle ends after Sept. 30. More specifically, the credit isn't allowed for any EV acquired after Sept. 30. For this purpose, an EV is acquired as of the date a written binding contract is entered into and a payment has been made, including a nominal down payment or a vehicle trade-in. Per IRS, if you have acquired the EV by Sept. 30, 2025, then you can claim the credit when you place the EV in service (e.g., take possession of it), even if you place the EV in service after Sept. 30. You can transfer the credit to the dealer at the time you take possession in order to lower the price of the EV.

Two tax credits for energy-efficient home improvements end after 2025. The 30% residential clean-energy credit is for people who install solar panels and the like in their homes. The energy-efficient home improvement credit is for homeowners who install smaller energy-saving upgrades, such as heat pumps, exterior doors and windows, central air-conditioning systems and boilers.

They are repealed for property placed in service after Dec. 31. Paying for the improvements before Jan. 1, 2026, is not enough to secure the credit. You will need to pay for them and get them completed before the end of this year.

GAMBLING Casinos will get a higher W-2G threshold for reporting slot winnings. They now file form W-2G with IRS for each person who wins $1,200 or more in bingo or playing the slots, or $1,500 or more in keno. The recently enacted OBBB raises the reporting threshold to $2,000, beginning with 2026 forms sent out in 2027. And that's not all. The $2,000 figure will also be adjusted annually for inflation.

BENEFIT PLANS Private equity is coming soon to 401(k) workplace retirement plans. President Trump issued an executive order that aims to allow 401(k)s to offer private equity, real estate, cryptocurrency and other alternative assets, in addition to the normal stocks, bonds, Treasuries, cash and money market funds. Following that order, the Dept. of Labor rescinded a 2021 supplemental statement that DOL says discouraged 401(k) fiduciaries from including alternative investments in their options for account participants. Consumer advocates and other critics are skeptical, pointing out the risk and complexity of these types of investments.

PREPARERS Cyberthieves continue to prey on preparers in their quest for taxpayer data. Every tax pro is a potential victim of these increasingly sophisticated crooks, whose aim is to steal client data to seek fraudulent refunds from false return filings. They use e-mails and texts to trick tax pros into giving up e-Services credentials, passwords, centralized authorization file numbers, preparer tax ID numbers and more. These thieves are also seeking preparers' electronic filing ID numbers, IRS warns. The scammer may pose as a tax software provider and e-mail the tax professional with a request to provide his or her EFIN information by fax. Do not respond.

Here are ways preparers can help protect themselves from data theft: Install antivirus software and keep current with the updates. Put in a firewall to shield computers and networks from bad actors. Routinely back up files. Don't open e-mails or texts that ask recipients to verify their EFINs, CAF numbers or other IRS credentials. Use multifactor authorization to give an extra layer of protection. Install encryption software and an encrypted private virtual network. And use e-Services tools to see how many e-filed returns were done under your EFIN.

Having a data security plan is mandatory for paid tax return preparers. IRS provides help in this area...a written template of a data security plan, sometimes referred to as a WISP, that preparers can use as a starting point and conform to their own situation. IRS Publication 5708 has all the details.

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SALT WRITE-OFF Regs barring charitable workarounds to the SALT deduction cap are valid, an appeals court decides. To get around the then-$10,000 federal limit on deducting state and local taxes on Schedule A, a few states created programs to offer state tax credits in exchange for donations to state-run charitable funds. The idea was to convert nondeductible taxes into deductible charitable gifts. In response, IRS published regulations generally denying charitable deductions to the extent SALT credits are received or expected to be received in consideration for the taxpayer's payment to the charity. N.J., N.Y. and Conn. then sued IRS, claiming the regs are invalid. The appeals court disagreed, saying that the Service didn't exceed its statutory authority because the regs correctly interpreted the law. Additionally, the regs weren't arbitrary or capricious (N.J. v. Bessent, 2nd Cir.).

Let's take a deeper look at the OBBB's changes to the SALT deduction cap. The 2017 Tax Cuts & Jobs Act imposed a $10,000 federal limit on the deduction for state and local taxes claimed by itemizers on Schedule A of Form 1040. That $10,000 limit was set to expire at the end of 2025. The OBBB raised the cap to $40,000 for 2025 through 2029. It goes back down to $10,000 beginning in 2030. There is also an income limit. For 2025, the SALT write-off begins to phase out… but not below $10,000…for filers with modified adjusted gross incomes over $500,000… $250,000 for married couples filing separate returns. Modified AGI for this purpose is AGI plus any foreign earned income exclusion, foreign housing exclusion, and certain income excluded from gross income because it was received from sources in Puerto Rico, American Samoa, Guam and the Northern Mariana Islands. The $40,000 cap and income limit increase 1% each year through 2029.

The OBBB doesn't restrict state workarounds for owners of pass-throughs to help them circumvent the SALT cap. Most states offer these workarounds, commonly known as the pass-through entity tax (PTET) regime, in which partnerships and other pass-through entities can elect to pay an entity-level state income tax instead of having the owners pay state tax on income that is passed through to them. The owners then get a state tax break for their pro-rata share of tax paid by the firm. When an election is made, state income tax payments shift from the business owners, who are subject to the $40,000 SALT cap (or less, based on the owner's modified AGI), to the pass-through entities, which are not. The House version of the OBBB included language that would have ended these popular state PTET workarounds. The Senate version, which ultimately became law, removed that language.

ESTATE & GIFT TAX The lifetime estate and gift tax exemption for 2025 deaths is $13,990,000. Next year, the federal exemption will rise to $15 million. And the OBBB makes this higher figure permanent, with annual increases to account for inflation.

Although the federal estate tax exemption is high, watch out for state taxes.

D.C. and 12 states levy their own estate taxes on decedents: These states are Conn., Hawaii, Ill., Maine, Md., Mass., Minn., N.Y., Ore., R.I., Vt. and Wash. The estate tax exemption amounts in the 13 locales vary widely from state to state. Only Conn. has hiked its estate exemption amount to nearly the current federal level.

Five states now have inheritance taxes: Ky., Md., Neb., N.J. and Pa.

The annual federal gift tax exclusion for 2025 is $19,000 per donee. So you can give up to $19,000 to each child, grandchild or any other person without paying federal gift tax, tapping your lifetime estate and gift tax exemption, or filing a gift tax return. Annual gifts over the exclusion amount will trigger filing of a federal gift tax return on Form 709 for 2025, but you won't owe any gift tax unless your total lifetime gifts exceed $13,990,000. And that's a lot of gifts.

The OBBB didn't change the annual gift tax exclusion. So for 2026, the amount will stay close to $19,000. It might be a bit higher because of inflation.

TAX DISPUTES

How broad is a Supreme Court case on Tax Court filing deadlines? In 2022, the Court sided with a taxpayer who filed a Tax Court petition one day late to seek a collection due-process hearing, ruling the statutory 30 days for filing a petition in a collection due-process case can be waived by a court for equitable reasons.

An open question involves late Tax Court petitions in deficiency cases. Taxpayers generally have 90 days from the date of an IRS deficiency notice to either pay the tax or file a petition with the Tax Court requesting relief.

IRS and the Tax Court say the 90-day rule in deficiency cases is set by law under a federal tax statute and can't be waived by a court for equitable reasons.

Three federal appeals courts take the opposite view. In 2023, the 3rd Circuit said the 90-day rule isn't jurisdictional and can be waived. The other two cases are from this month. The 2nd Circuit sided with a couple who filed their petition on day 99. The court decided the federal law isn't jurisdictional and the 90-day rule is subject to equitable tolling and can be waived based on facts and circumstances. The court sent the case back to the Tax Court to decide this (Buller, 2nd Cir.). The 6th Circuit issued a similar decision in another case (Oquendo, 6th Cir.).

A preparer's fraud gives the Service more leeway to go after taxpayers. IRS has unlimited time to assess taxes in this case in which a couple's preparer larded their 1040s for 1993 through 1999 with false amounts. IRS discovered the fraud years later and, in 2019, mailed a notice for unpaid taxes, interest and penalties. The normal three-year statute of limitations doesn't apply in this situation, even though the taxpayer here lacked fraudulent intent (Murrin, 3rd Cir.).

There is now a circuit split in federal appeals courts on this issue. In 2015, the Federal Circuit appeals court ruled for a taxpayer who, when selling a business, relied on the tax advice of his attorney, who structured the deal as a tax shelter. His CPA, who didn't participate in the scheme, prepared the 1040. 10 years later, IRS audited the taxpayer, claiming the limitations period remained open indefinitely because of fraud. The Federal Circuit rejected this because the fraud was perpetrated only by the lawyer, and IRS conceded that the taxpayer lacked the intent to evade taxes.

TAX DEBTS

Could federal employees with overdue tax debts lose their jobs? In June, IRS sent a notice to about 525,000 current and retired federal employees, informing them that they are noncompliant with their federal tax obligations and asking them to pay their taxes or file any late returns or IRS will follow up. Some workers fret that, given the White House's push to reduce the federal workforce, the jobs of those who don't comply with the IRS notice might be on the chopping block.

IRS

Will IRS's progress on helping non-English-speaking taxpayers be reversed? Possibly. Since 2020, IRS has made its communications with taxpayers of all nationalities more user-friendly. It has multilingual versions of Form 1040, and filers can indicate whether they wish to receive written communication from IRS in a language other than English. Many of IRS's publications and top web pages on *irs.gov* now come in multiple languages. The Treasury Dept. is considering plans for IRS to eliminate its multilingual services. This controversial move would comply with a White House executive order designating English as the official language.

Yours very truly,

Joy Taylor

Aug. 28, 2025 Joy Taylor, Editor

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