CUMMINGS & LOCKWOOD LLC

2025 PRIVATE CLIENTS ANNUAL UPDATE

November 18, 2025

We hope that you and your family are enjoying a peaceful and healthy 2025. This past year has brought a lot of changes and political and economic debate in Washington and nationally, but for once we find ourselves ending the year with a new level of predictability in the federal gift, estate and generation-skipping transfer ("GST") tax regime.

As you may recall, the Tax Cuts and Jobs Act of 2017 (the "2017 Tax Act") provided that the federal estate, gift and GST tax provisions of the Internal Revenue Code would revert to their pre-2018 versions on January 1, 2026. The tax legislation passed on July 4, 2025 (the "2025 Tax Act"), which is sometimes referred to as the One Big Beautiful Bill Act, eliminated the reversion provisions of the 2017 Tax Act and replaced them with a "permanent" exemption of $15,000,000 for an individual and $30,000,000 for a married couple starting in 2026 and indexed for inflation in future years. While there is no such thing as a permanent tax law change as Congress can change the law at any time, the 2025 Tax Act does not include any sunsetting provisions which would result in the automatic reduction of the new federal estate, gift and GST tax exemptions.

FEDERAL ESTATE, GIFT AND GST TAX RATES AND EXEMPTIONS

Year	Exemption	Rate
2024	$13,610,000	40%
2025	$13,990,000	40%
2026	$15,000,000	40%
2027	$15,000,000*	40%

* or greater based on inflation

In addition to increasing the federal estate, gift and GST exemptions, the 2025 Tax Act made other significant changes which could impact your estate planning. Because these tax changes may be of limited interest to certain clients, we have included a discussion of the changes toward the end of this letter.

GIFTING TECHNIQUES FOR A HIGHER INTEREST RATE ENVIRONMENT

Although interest rates remain low from a long-term historical perspective, interest rates are considerably higher than a few years ago. While some tax planning strategies are more effective in lower interest rate environments, others are more attractive when interest rates increase. Below are two techniques which provide better tax results, all else being equal, when interest rates are higher.

QUALIFIED PERSONAL RESIDENCE TRUST

A Qualified Personal Residence Trust ("QPRT") is a tax-efficient means of transferring a personal residence to intended beneficiaries. The concept of a QPRT is relatively simple - the owner of the personal residence transfers it to a trust but retains the right to live rent-free in the residence for a specified number of years. In order to be successful, the original owner must survive the specified number of years. If the original owner is alive at the end of that period, ownership of the residence is transferred to the beneficiaries (or to a trust for their benefit) and the value of the residence is removed from the estate of the original owner. At that time, the original owner can rent

the property from the beneficiaries (or trust) if he or she wishes to continue to use the residence.

The primary tax advantage of the QPRT comes from the way in which the value of the residence transfer is calculated for gift tax purposes. The value of the gift is not the full value of the residence on the date of the gift but rather the present value of the beneficiaries' right to receive the residence after the specified number of years and only if the original owner survives that term. This is calculated by reducing the value of the residence transferred to the QPRT by the value of the original owner's retained right to live in the property for a period of years using the IRS assumed interest rate on the date of the transfer.

In a high interest rate environment, the value of the original owner's retained interest increases, thereby reducing the value of the gift. For example, if a 60 year old transferred a $2,000,000 residence to a 15-year QPRT in March 2022 when the IRS assumed interest rate was 2.0%, the taxable gift would have been roughly $1,560,000 while this same gift in September 2025 when the assumed interest rate was 4.8% resulted in a taxable gift of $770,000. Assuming a federal gift and estate tax rate of 40%, the tax savings resulting from the higher IRS assumed interest rate alone is $316,000.

CHARITABLE REMAINDER TRUST

A Charitable Remainder Trust ("CRT") is a trust which pays a percentage of the trust assets annually to the Grantor or to other noncharitable beneficiaries for a set period of time and, at the end of that period, pays whatever property remains in the CRT to one or more charities. Funding a CRT has a number of tax benefits for the Grantor including:

- The Grantor is entitled to an immediate income and gift tax charitable deduction equal to the present value of the charity's right to receive the assets remaining in the trust at the end of the trust term. As interest rates increase, CRTs become a more attractive gifting option as the higher interest rate provides the Grantor with a larger charitable income tax deduction.
- The CRT itself generally is exempt from income taxes. Accordingly, appreciated property can be transferred to the CRT and then sold without the CRT paying any immediate capital gains tax. Instead, a portion of the capital gain will be deemed distributed to the Grantor or noncharitable beneficiary each year as part of the annual payment, thus spreading the tax liability over multiple years.

OTHER ITEMS OF INTEREST

NEW RULES FOR PAYMENTS TO AND FROM THE FEDERAL GOVERNMENT

On March 15, 2025, President Trump signed Executive Order 14247, "Modernizing Payments To and From America's Bank Account," which provides that the U.S. Treasury will cease to issue paper checks for most government disbursements, including social security payments and income tax refunds, as of September 30, 2025 and requires that almost all payments to the government, including tax payments, be made electronically. These changes regarding payments to the government will be implemented for the 2025 tax season and will not impact filings for 2024 and prior years.

In order to receive refunds electronically, the IRS is encouraging taxpayers to file returns with valid bank account information, to open a bank account if the taxpayer does not already have one or to use a prepaid debit card or mobile app that permits direct deposits. Going forward, taxpayers without access to digital payment options may be eligible for Treasury-sponsored alternatives. In the meantime, it appears that the IRS will continue to issue refunds by check for those individuals without access to banking or electronic payment options.

While the IRS will continue to expand electronic payment options for individuals to pay their taxes, the IRS website suggests that, until further notice, taxpayers should continue to use existing forms and procedures to make payments to the IRS including electronic payment options such as utilizing IRS Direct Pay which uses an existing bank account, using a credit card, debit card or digital wallet, creating an online account with the IRS from which to pay the taxes or paying via the Electronic Federal Tax Payment System (EFTPS).

FLORIDA DECANTING STATUTE

Many states have enacted "decanting statutes" in recent years, including Connecticut and Florida. (New York has had a decanting statue for over a decade.) Decanting is the process by which the assets in an existing trust can be moved or "decanted" to another trust. While some trust instruments specifically permit decanting and define when and how the assets of a particular trust can be moved to another trust, decanting statutes authorize decanting and create a process for doing so when one is not set forth in the trust instrument itself or may provide additional flexibility for those trusts which already include decanting provisions.

While Florida's statute has been in effect for several years, the statute was amended as of June 2025. Florida's amended decanting statute provides additional flexibility for decanting a trust while continuing to protect beneficiaries' rights. Specifically, Florida law now provides that under certain circumstances the Trustee of a trust may, in addition to a traditional distribution of trust assets to a new trust, modify the terms of the original trust. Modification allows for a more streamlined decanting process by avoiding asset transfers and retitling, creation of new trust accounts, and the need to obtain new taxpayer identification numbers. In addition, the new statute includes technical changes which make the decanting process easier and which give beneficiaries more time to challenge a decanting to protect their interests. Finally, the new decanting statute further clarifies that its provisions apply to any trust that is governed by Florida law or has its principal place of administration in Florida.

FLORIDA COMMUNITY PROPERTY TRUSTS

In 2021, Florida became the fifth non-community property state to permit the creation of Community Property Trusts ("CPTs"). These CPTs allow married couples to benefit from some of the laws applicable in community property jurisdictions, most notably a full step-up in basis on all assets in the trust at the death of the first spouse to die. In June 2025 the Florida statute was changed to clarify that a trust which expressly permits amendment, restatement or modification and was created prior to the enactment of Florida's CPT legislation can be converted to a CPT by amending, restating or modifying the trust to comply with the CPT statute, thus eliminating the need to create a new trust and move assets from one trust to another.

RELEVANT PROVISIONS OF THE 2025 TAX ACT

CHANGES TO CHARITABLE DEDUCTION AND IMPACT ON CHARITABLE GIVING

The 2025 Tax Act made several important changes to the income tax charitable deduction that will take effect in 2026, and taxpayers may wish to consider various strategies to maximize their charitable deductions before year-end.

Starting in 2026, taxpayers who do not itemize deductions on their income tax returns may take a charitable deduction of up to $1,000 per taxpayer ($2,000 for married couples filing jointly) for cash gifts, thereby encouraging these taxpayers to make contributions to charity in return for a tax deduction that they would not have received under prior tax law. This deduction does not apply to gifts to a Donor Advised Fund or Private Foundation.

For taxpayers who typically itemize their income tax deductions, the 2025 Tax Act

(i) makes permanent the 60% of adjusted gross income ("AGI") limit on deductibility of annual cash contributions to public charities, (ii) imposes a new 0.5% of AGI floor on annual contributions to qualified charities below which a charitable deduction is not permitted, and (iii) caps the benefit of the charitable deduction at 35% regardless of whether the taxpayer is in a higher income tax bracket. Due to these changes, clients who are charitably inclined may wish to consider the following:

- Accelerating the timing of their charitable gifts to 2025, including making large donations to a Donor Advised Fund or Private Foundation, to receive an immediate income tax charitable deduction and avoid the 0.5% floor and the 35% limitation on the charitable deduction. Gifts made in 2025 to a Donor Advised Fund or Private Foundation will preserve the clients' ability to spread grants to recipient charities over a period of years.

- Bunching their charitable gifts into a single year as opposed to spreading them over several years to avoid multiple applications of the 0.5% floor. While it is unclear how the 0.5% floor will apply to excess charitable donations made prior to 2026 that are carried forward for deduction in 2026 and beyond, it seems likely that these charitable donations will also be subject to the 0.5% floor.
- Using IRA Qualified Charitable Distributions ("QCDs") to make charitable contributions. In 2026, for clients age 70 ½ or older, $108,000 per year (as adjusted for inflation) can be donated directly from IRAs to public charities. These QCDs are not subject to the 0.5% floor or the 35% limitation on the charitable deduction since they are not included in the client's taxable income. In addition, QCDs do count towards satisfying the client's Required Minimum Distribution for the year.

EDUCATION SAVINGS ACCOUNTS (529 ACCOUNTS) BECOME MORE FLEXIBLE

Education Savings Accounts ("529 accounts") are a tax-advantaged way to save for a child's or grandchild's college education due to the income tax-deferred growth of the assets in the 529 account, the ability to superfund the 529 account by gifting up to 5 years of annual exclusions in a single year and, most importantly, the income tax-free use of the funds for qualifying educational expenses such as tuition. The 2025 Tax Act has increased the annual cap on distributions for children in grades K-12 to $20,000 and expanded the list of expenditures that qualify for these tax-free distributions to include books, tutoring and fees for standardized tests. In addition, the 2025 Tax Act added a new category of qualified expenses for older beneficiaries to include credentialing and licensing costs for those individuals seeking a career in the trades or pursing professional licensing for professions such as law or financial planning. Finally, the 2025 Tax Act made permanent the ability to rollover a 529 account to a Roth IRA as long as certain conditions are met.

TRUMP ACCOUNTS

The 2025 Tax Act created "Trump Accounts" which are individual savings accounts created for children who are under the age of 18. The accounts may be funded with up to $5,000 annually, indexed for inflation, until the child attains the age of 18. A parent or other individual may contribute the full $5,000 while contributions from an employer are limited to $2,500 but still count toward the $5,000 annual maximum. In addition, all children born in the U.S. between 2025 and 2028 will automatically receive $1,000 from the U.S. Government for their account. If the contributor is a parent or other individual, the contributions are not exempt from gift tax unless the contribution qualifies for the annual exclusion (currently $19,000 per individual and $38,000 per couple) or utilizes a portion of the contributor's available gift tax exemption. Until the account holder turns 18, the account assets must be invested in a US equity index fund or similarly invested portfolio, and no distributions may be made from the account.

In the year that the account holder turns 18, the account will convert to a traditional IRA. The assets in the Trump Account will grow on a tax-deferred basis and distributions will be income taxable in the same manner as a traditional IRA - contributions from parents and other individuals will not be taxable income but investment income and contributions from other sources, such as employers, will be taxed as ordinary income upon withdrawal. Like traditional IRAs, early withdrawals before age 59 ½ may incur a 10% penalty unless used for specific purposes such as the purchase of a first home or payment of qualified medical or educational expenses.

CHANGES TO QUALIFIED SMALL BUSINESS STOCK PLANNING

The Internal Revenue Code provides special preferential capital gains tax treatment to eligible shareholders of a qualifying small business upon sale or exchange of their stock in the business ("Qualified Small Business Stock" or "QSBS"). Essentially, significant appreciation may be excluded from capital gains tax upon a sale or exchange of stock that qualifies as QSBS.

The rules defining what stock qualifies for this special treatment are complex and focus on the following:

- The structure of the entity (must be a domestic C Corporation or LLC that is treated as a C Corporation for income tax purposes);
- The nature of the business (must be engaged in a qualifying active trade or business and have less than a set maximum threshold of gross assets at the time the stock is issued); and
- The ownership structure of the shares (the shareholder must have acquired the stock directly from the issuing company - or by gift or inheritance from the original acquirer - and meet certain holding period requirements).

The 2025 Tax Act changed several of the qualification rules for the business and the shareholders as follows:

- The maximum permissible gross asset value of the Qualified Small Business at the time of the original issuance of the stock was increased from $50,000,000 to $75,000,000.
- The mandatory 5-year holding period for stock issued prior to July 4, 2025 was changed for stock issued after that date. The new law provides for tiered holding periods with corresponding increases in the percentage of gain excluded from capital gains tax: 3 years for 50%, 4 years for 75% and 5 years for 100%.
- The aggregate amount of gain that can be excluded per taxpayer was increased from the greater of (a) $10,000,000 or 10 times the taxpayer's basis in the stock to (b) $15,000,000 or 10 times the taxpayer's basis in the stock.

While the changes to Internal Revenue Code Section 1202 have increased the number of taxpayers who are eligible for special capital gains tax treatment on the disposition of their QSBS, the limitations on the amount of gain that can be excluded per taxpayer continue to pose a problem for taxpayers who wish to sell all or a large portion of their QSBS. One solution to this problem is a technique referred to as "QSBS stacking," the goal of which is to spread the capital gain among multiple taxpayers each of which have their own capital gain exclusion thereby benefiting from multiple capital gain exclusions.

In order to take advantage of this QSBS stacking technique, the original owner of the QSBS can gift the stock to family members and certain types of irrevocable trusts, referred to as "nongrantor trusts," which are treated as separate income taxpayers. The goal is that upon sale of the stock by the separate income taxpayers, each taxpayer could claim the full exclusion from capital gains tax.

While QSBS stacking can be a very useful technique for reducing capital gains tax, it is not without risk. The anti-abuse rules of Internal Revenue Code Section 643(f) target the use of multiple trusts with similar grantors and similar beneficiaries which have the principal purpose of avoiding federal income tax. As such, it is very important to analyze whether each potential recipient would violate these rules as there are both civil and criminal penalties for violations.

ESTATE PLANNING AND ARTIFICIAL INTELLIGENCE

Cummings & Lockwood has been exploring how we can responsibly use Artificial Intelligence ("AI") to improve our efficiency and reduce your legal fees. We have always been ahead of the curve in automating our document drafting capabilities and now we are looking to further enhance our systems by integrating AI into the process while continuing to maintain data security, but as we do so it has become abundantly clear that AI cannot replace the human expertise needed to develop and implement a comprehensive estate plan.

Estate planning is more than tax planning - it requires understanding complex family dynamics, unusual business arrangements and collaboration with the client and the client's other advisors. While AI can be a helpful tool, AI is not capable of analyzing nuanced legal issues; AI cannot respond to the expression on the client's face when discussing a sensitive and emotionally-charged topic; AI cannot sense the tension in the room or read between the lines; AI has no legal or ethical obligations; and AI cannot develop a healthy collaborative relationship built on trust. For all of these reasons, we intend to use AI when appropriate, but we will not employ AI in situations which require a human touch.

LOOKING FORWARD

While the 2025 Tax Act has eliminated the urgency to make gifts before the end of 2025, it also provided some additional gifting opportunities by increasing the lifetime gifting exemption. We suggest that you contact your Cummings & Lockwood attorney with questions about any of the topics discussed in this letter and, for those clients who wish to make gifts, to discuss getting started on a gifting program.

As always, we wish you a very happy and healthy holiday season!

To view as a PDF:

2025 PCG Annual Update Letter without Rates