2026 Federal Tax Update - Individuals

What changed, what it means, and what to do next

Speakers

Greg White, CPA

Founder -- WGN, PS.

Adjunct Professor, Golden Gate University

Admitted to practice – U.S. Tax Court



George J. Koutelieris, CPA

Managing Shareholder -- Johnson & Shute, P.S.

Adjunct Professor, Golden Gate University

Graduated with Highest Honors from GGU School of Taxation and named Graduate of the Year



Overview



- Inflation Adjustments
- Changes to Form 1040
- Itemized Deductions
  - High-income limit and charitable contributions
  - Trust and estate distribution deductions
- Tax Aware Investing
- Trump Accounts
- AI and Tax
- New primary and secondary scholarship credit.

Inflation

Adjustments



2026 and 2027 Tax Limits

Tax provision	2026	2027
IRA Contributions (basic) / IRA Contribution (catch-up)	$7,500 / $1,100	**$7,500 / $1,100**
401(k) Salary Reduction	$24,500	$25,500
401(k) Catch-up if 50 or older	$8,000	$8,500
401(k) Super catch-up (60 – 63)	$11,250	$11,750
Annual gift exclusion (per donor, per recipient)	$19,000	$20,000
Basic estate tax exclusion (per individual)	$15,000,000	$15,480,000

Tax Planning

After Election Results

- After the election, consider:
  1. **Consider more gifting**.
     - Focus on high-cost basis assets.
       - Don't "step out of your step-up."
  2. **Estate planning**.
     - The $15 million basic estate exclusion can be preserved under the "no claw back rule"
  3. **Portability elections.**
     - **Even if Form 706 is not required.**
  4. Roth conversions.
     - The **37% top tax rate might end** in 2029.
     - Many high-income taxpayers should consider converting in 2026-2028.

No "Claw Back" Rule

2026 Gift
2029 Death

- 2026: Bob makes $15 million of taxable gifts to children.
  - Uses his entire $15 million BEA. No prior taxable gifts or gift splitting.
  - Completed outright gifts, excluded from Bob's estate.
- 2029: Bob dies ($0 assets). Assume BEA has fallen to $3.5 million.
  - Anti-claw back rule preserves the $15 million exclusion used.
  - Federal estate tax: $0. Unused exclusion to port: $0.

Portability: Payoff and Pitfalls

Facts

- **2026:** H dies; his $6M estate passes to W (marital deduction). Unused exclusion (DSUE): $15M.
- **Later:** Congress cuts the exclusion to $3.5M (hypothetical).
- **2031:** W dies owning $12M.

W's estate tax if the exclusion is cut to $3.5M

No 706 filed for H	
W's estate	$12.0M
Less W's exclusion	($3.5M)
Exposed to tax	$8.5M
Estate tax at 40%	**$3.4M**

H's 706 *elects* portability	
W's estate	$12.0M
Less W's exclusion	($3.5M)
Less H's DSUE	($15.0M)
Estate tax	**$0**

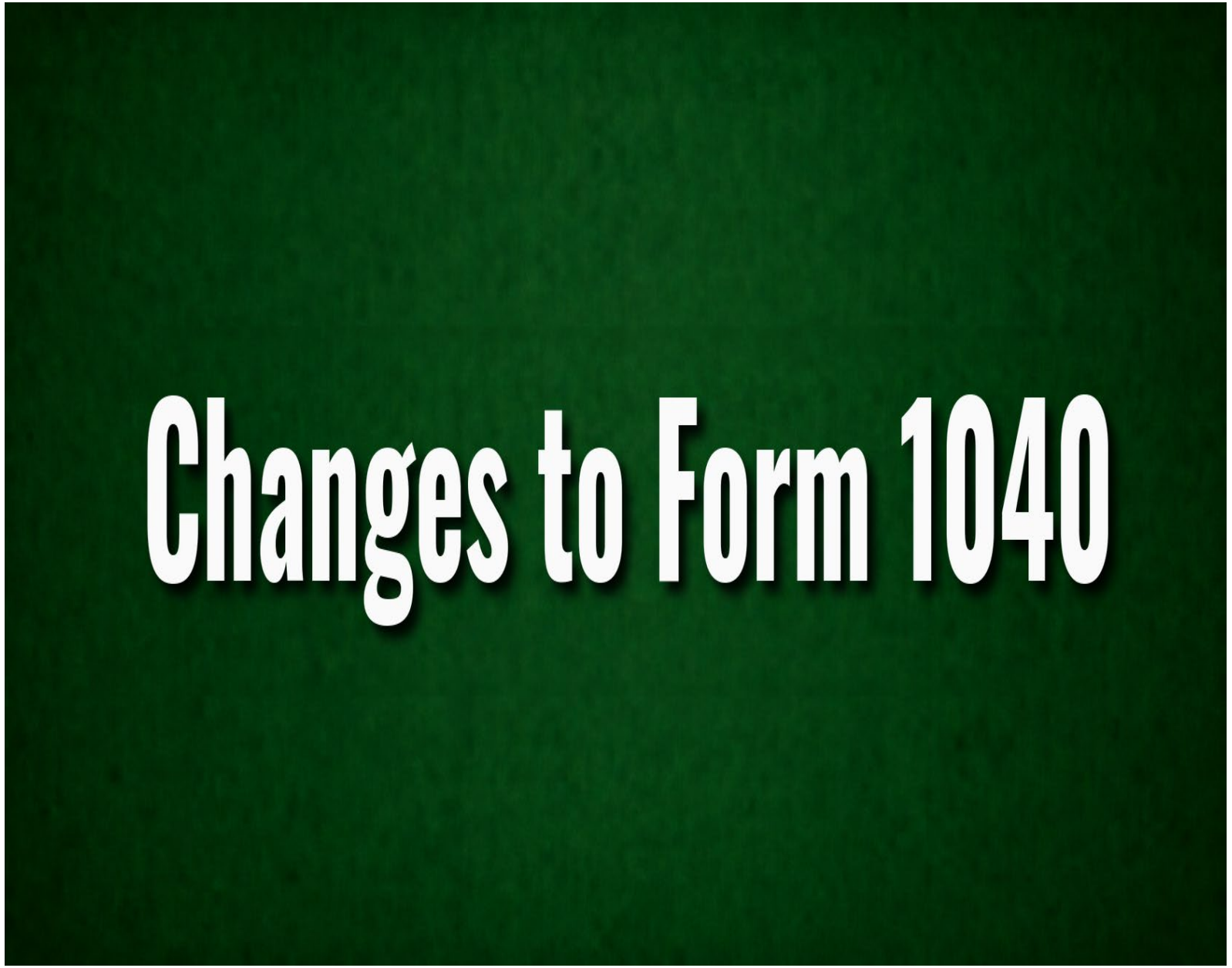
Under today's law W owes nothing either way: her own exclusion ($15.48M in 2027, indexed) covers $12M. The election is insurance against a cut.

Making a timely election.

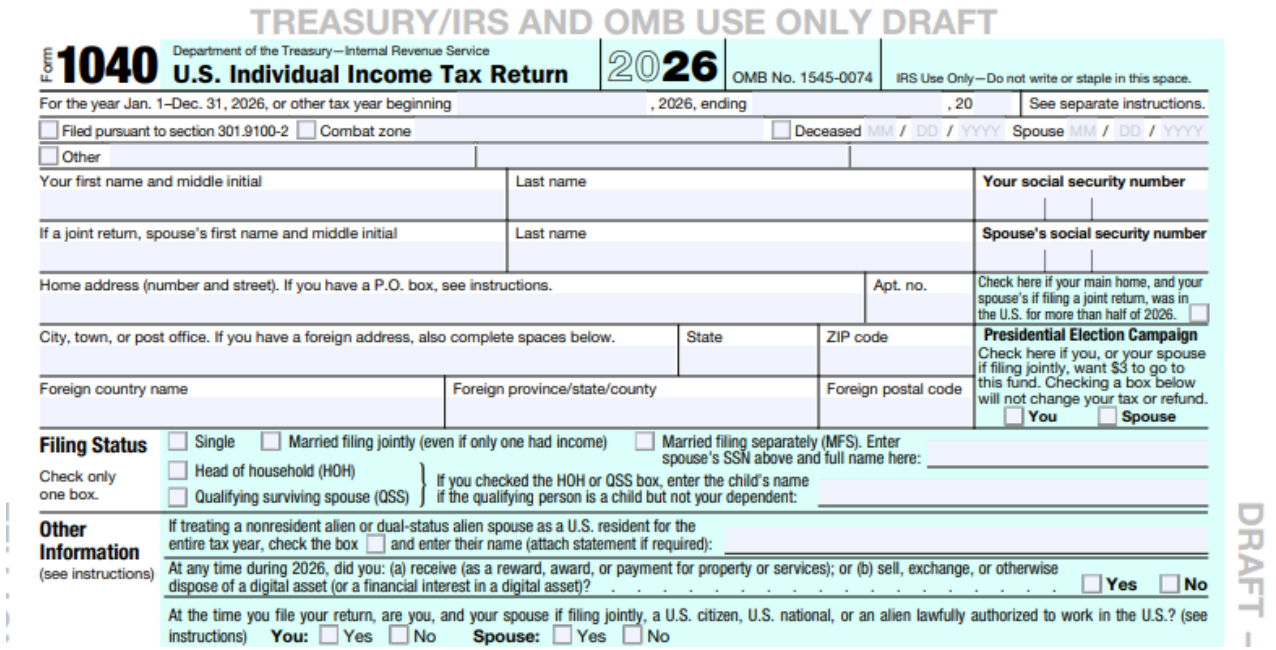
- File on time: 9 months + 6-month extension — §§ 2010(c)(5)(A), 6075(a)
- Missed it? Rev. Proc. 2022-32 gives 5 years — only if § 6018(a) required no return
- IRS may examine H's return at any time to adjust DSUE — § 2010(c)(5)(B)

Changes to

Form 1040



New “Citizenship” Question Proposed Reg REG-119882-25



TREASURY/IRS AND OMB USE ONLY DRAFT

Form **1040** Department of the Treasury—Internal Revenue Service **U.S. Individual Income Tax Return** **2026** OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

For the year Jan. 1–Dec. 31, 2026, or other tax year beginning , 2026, ending , 20 See separate instructions.

☐ Filed pursuant to section 301.9100-2 ☐ Combat zone ☐ Deceased MM / DD / YYYY Spouse MM / DD / YYYY

☐ Other

Your first name and middle initial | Last name | **Your social security number**

If a joint return, spouse's first name and middle initial | Last name | **Spouse's social security number**

Home address (number and street). If you have a P.O. box, see instructions. | Apt. no. | Check here if your main home, and your spouse's if filing a joint return, was in the U.S. for more than half of 2026. ☐

City, town, or post office. If you have a foreign address, also complete spaces below. | State | ZIP code | **Presidential Election Campaign** Check here if you, or your spouse if filing jointly, want $3 to go to this fund. Checking a box below will not change your tax or refund. ☐ **You** ☐ **Spouse**

Foreign country name | Foreign province/state/county | Foreign postal code

Filing Status Check only one box.
☐ Single ☐ Married filing jointly (even if only one had income) ☐ Married filing separately (MFS). Enter spouse's SSN above and full name here:
☐ Head of household (HOH) ☐ Qualifying surviving spouse (QSS) } If you checked the HOH or QSS box, enter the child's name if the qualifying person is a child but not your dependent:

Other Information (see instructions)
If treating a nonresident alien or dual-status alien spouse as a U.S. resident for the entire tax year, check the box ☐ and enter their name (attach statement if required):
At any time during 2026, did you: (a) receive (as a reward, award, or payment for property or services); or (b) sell, exchange, or otherwise dispose of a digital asset (or a financial interest in a digital asset)? ☐ Yes ☐ No
At the time you file your return, are you, and your spouse if filing jointly, a U.S. citizen, U.S. national, or an alien lawfully authorized to work in the U.S.? (see instructions) **You:** ☐ Yes ☐ No **Spouse:** ☐ Yes ☐ No

DRAFT –

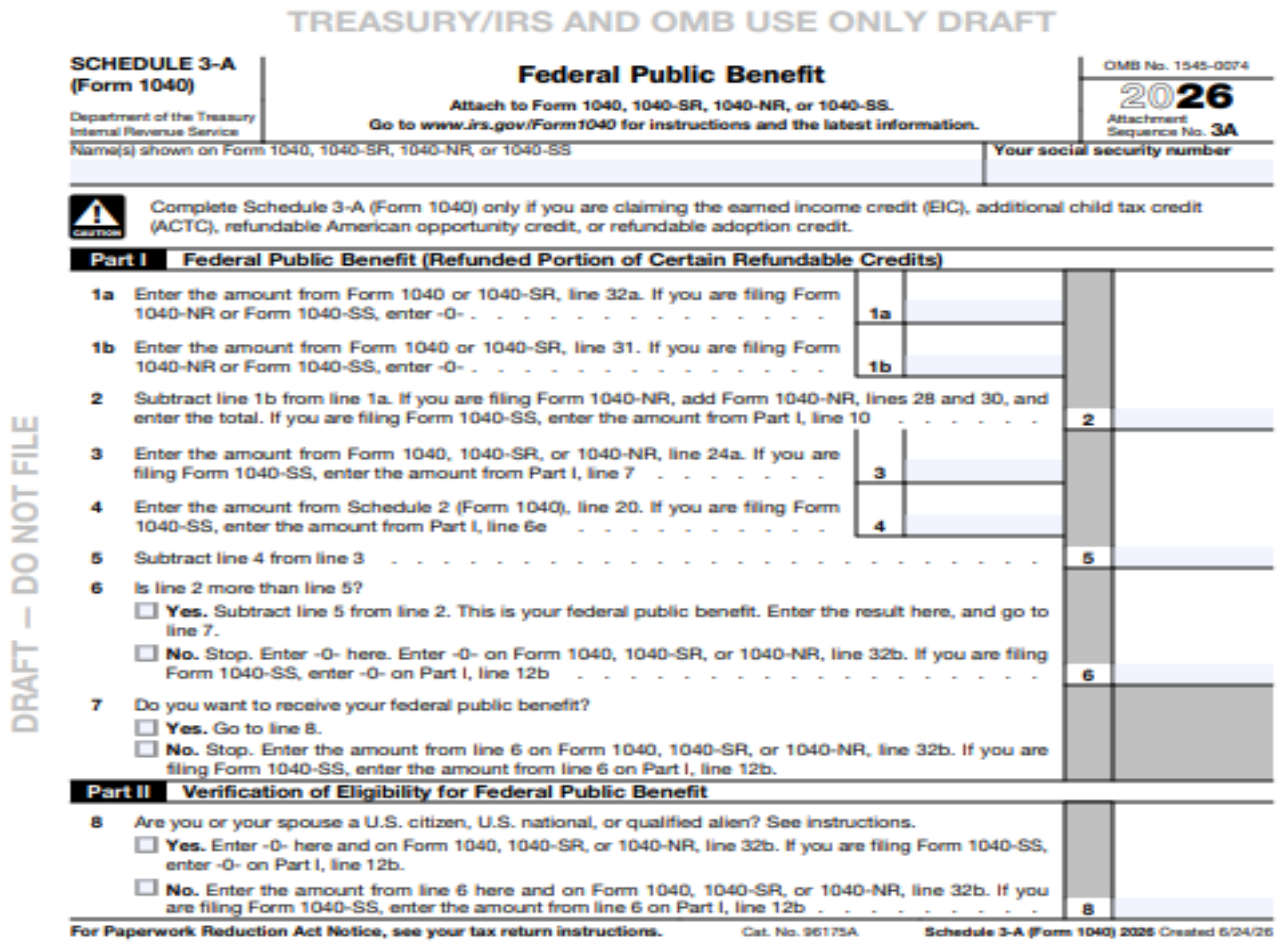
- Draft Form 1040 asks if you are a citizen, national, or alien authorized to work (H-1B visas would answer “yes”).
- It’s not clear what purpose this question serves.
  - It does not affect the new limits on refundable credits.

Proposed Reg REG-119882-25

- Proposed regs somewhat controversial.
  - Based on a 1996 law to reduce welfare (PRWORA).
    - Personal Responsibility and Work Opportunity Reconciliation Act of 1996.
      - That law restricted a single credit.
        - Required a SSN to claim the EITC.
- New Schedule 3-A is the reporting mechanism.

New “Citizenship” Question

- Draft Schedule 3-A (line 8) would require attesting to U.S. citizen, U.S. national, or qualified-alien status.



TREASURY/IRS AND OMB USE ONLY DRAFT

SCHEDULE 3-A (Form 1040)
Department of the Treasury
Internal Revenue Service

Federal Public Benefit
Attach to Form 1040, 1040-SR, 1040-NR, or 1040-SS.
Go to www.irs.gov/Form1040 for instructions and the latest information.

OMB No. 1545-0074
2026
Attachment Sequence No. 3A

Name(s) shown on Form 1040, 1040-SR, 1040-NR, or 1040-SS | Your social security number

Complete Schedule 3-A (Form 1040) only if you are claiming the earned income credit (EIC), additional child tax credit (ACTC), refundable American opportunity credit, or refundable adoption credit.

Part I Federal Public Benefit (Refunded Portion of Certain Refundable Credits)

1a Enter the amount from Form 1040 or 1040-SR, line 32a. If you are filing Form 1040-NR or Form 1040-SS, enter -0- . . . 1a
1b Enter the amount from Form 1040 or 1040-SR, line 31. If you are filing Form 1040-NR or Form 1040-SS, enter -0- . . . 1b
2 Subtract line 1b from line 1a. If you are filing Form 1040-NR, add Form 1040-NR, lines 28 and 30, and enter the total. If you are filing Form 1040-SS, enter the amount from Part I, line 10 . . . 2
3 Enter the amount from Form 1040, 1040-SR, or 1040-NR, line 24a. If you are filing Form 1040-SS, enter the amount from Part I, line 7 . . . 3
4 Enter the amount from Schedule 2 (Form 1040), line 20. If you are filing Form 1040-SS, enter the amount from Part I, line 6e . . . 4
5 Subtract line 4 from line 3 . . . 5
6 Is line 2 more than line 5?
☐ **Yes.** Subtract line 5 from line 2. This is your federal public benefit. Enter the result here, and go to line 7.
☐ **No.** Stop. Enter -0- here. Enter -0- on Form 1040, 1040-SR, or 1040-NR, line 32b. If you are filing Form 1040-SS, enter -0- on Part I, line 12b . . . 6
7 Do you want to receive your federal public benefit?
☐ **Yes.** Go to line 8.
☐ **No.** Stop. Enter the amount from line 6 on Form 1040, 1040-SR, or 1040-NR, line 32b. If you are filing Form 1040-SS, enter the amount from line 6 on Part I, line 12b.

Part II Verification of Eligibility for Federal Public Benefit

8 Are you or your spouse a U.S. citizen, U.S. national, or qualified alien? See instructions.
☐ **Yes.** Enter -0- here and on Form 1040, 1040-SR, or 1040-NR, line 32b. If you are filing Form 1040-SS, enter -0- on Part I, line 12b.
☐ **No.** Enter the amount from line 6 here and on Form 1040, 1040-SR, or 1040-NR, line 32b. If you are filing Form 1040-SS, enter the amount from line 6 on Part I, line 12b . . . 8

DRAFT — DO NOT FILE

DRAFT — DO NOT FILE

For Paperwork Reduction Act Notice, see your tax return instructions. Cat. No. 96175A Schedule 3-A (Form 1040) 2026 Created 6/24/26

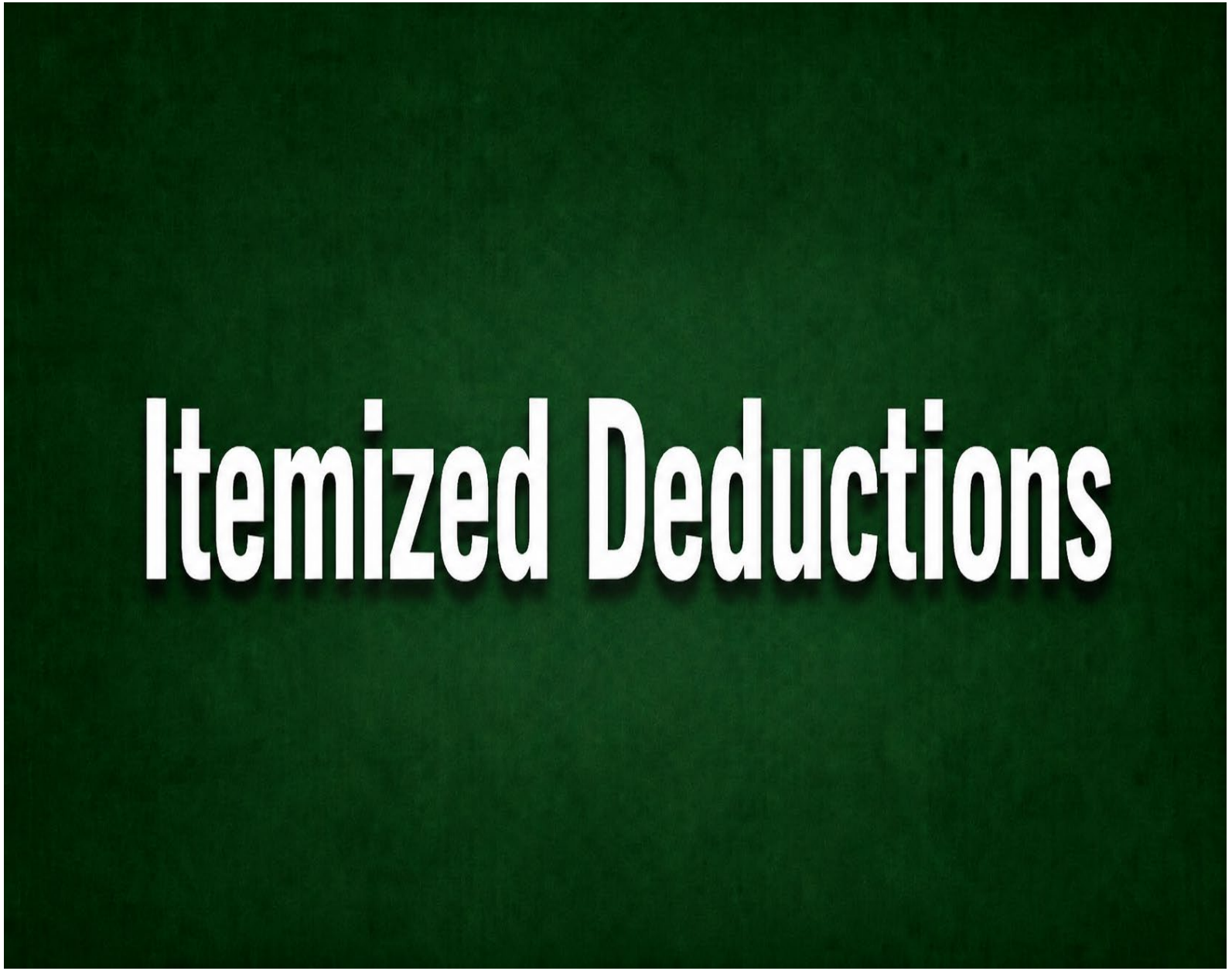
New Limit on Refundable Credits

- Prop reg, Aug. 20, 2026 (effective for tax years ending on or after the date final regs are published):
  - Apply to the *refundable* portion of these credits:
    1. American opportunity tax credit (AOTC).
    2. Child tax credit.
    3. Earned income tax credit.
    4. Adoption credit.
  - Would *not* apply to U.S. citizens, U.S. nationals, "qualified aliens."
    - "Qualified aliens" - Lawful permanent residents, asylees, refugees, and certain other groups defined under PRWORA.
      - Would answer "yes."
    - For a joint return, only one spouse needs to satisfy.
  - Status is determined on the date the return is filed.
  - Appears H-1B, L-1, others answer "no." (likely *won't* limit credits).
    - Denial of "*refunded* portion" of refundable portion of credits.
      - Aggregate of credits *exceeding* income tax liability.
- OBBBA §71301 separately limits PTC to "eligible aliens" in 2027.

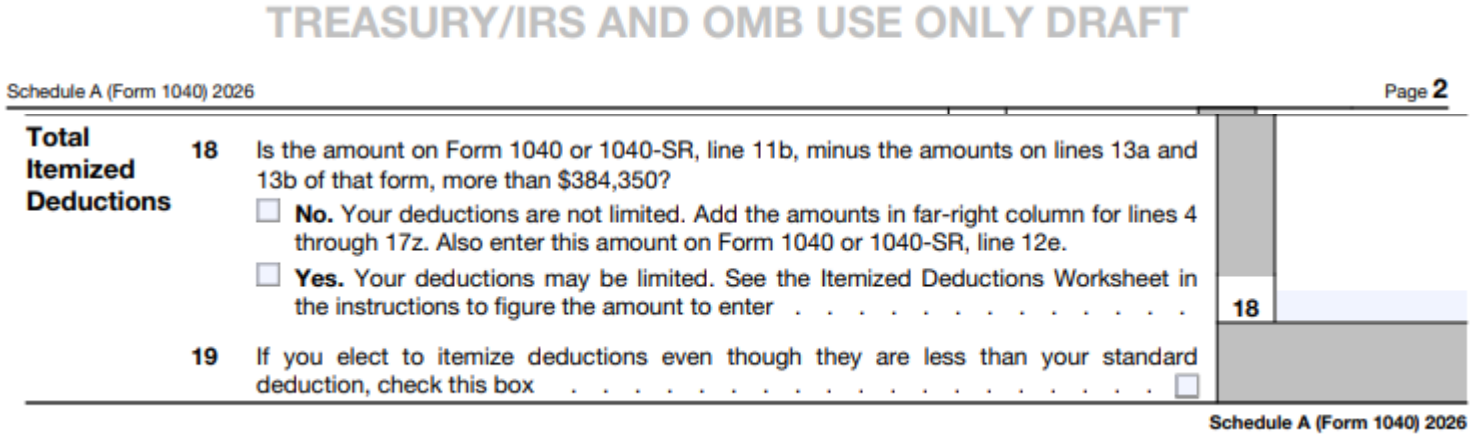
Due Diligence

- Three of these credits are subject to §6695(g).
  - Penalties on preparers for *failure* to perform *due diligence* on certain credits and head of household filing status.
  - I'm aware of a preparer in the Seattle area who had this penalty applied.
    - And he was also subject to an investigation by OPR (Office of Professional Responsibility).
- Form 8867 documents some elements of required due diligence.
- Questions:
  - Should we ***add*** a question to our checklists?
  - Just to make sure we don't risk this penalty.
  - Keep an eye open – are these regulations finalized in 2026?

Itemized Deductions



Draft Schedule A



TREASURY/IRS AND OMB USE ONLY DRAFT

Schedule A (Form 1040) 2026 Page **2**

Total Itemized Deductions

18 Is the amount on Form 1040 or 1040-SR, line 11b, minus the amounts on lines 13a and 13b of that form, more than $384,350?

☐ **No.** Your deductions are not limited. Add the amounts in far-right column for lines 4 through 17z. Also enter this amount on Form 1040 or 1040-SR, line 12e.

☐ **Yes.** Your deductions may be limited. See the Itemized Deductions Worksheet in the instructions to figure the amount to enter **18**

19 If you elect to itemize deductions even though they are less than your standard deduction, check this box . . . . . ☐

Schedule A (Form 1040) 2026

- Top - That's right – Sch A would become 2 pages.
- Q18 – Relates to the "overall" itemized phaseout.
- Q19 – Electing to itemize even though less than standard deduction.
  - Why would anyone do that?
    1. If in AMT situation.
    2. In some states this can provide a benefit.

Reduction of Itemized Deductions for 37% Bracket Taxpayers

Phase out of itemized deductions for high income taxpayers.

- Effective in 2026.
  - Won't affect many taxpayers.
- Mechanics:
- Lose 2/37s of (5.4%) of ***lesser*** of:
  1. Itemized deductions ***after*** reduce by other limits (SALT phaseout, .5% contributions floor).
  2. Extent to which taxable income (+ itemized deductions) > beginning of 37% bracket.
     - Can ***reduce loss of itemized deductions*** but ***not*** *increase loss of itemized deductions.*
- Practical effect: 35% tax benefit from itemized (normally get 37% tax benefit).
- *Important*: High-income taxpayers keep *almost all* of their itemized deductions.

- *Example*
- 2026
  - $1 billion taxable income.
  - $100,000 itemized.
  - 37% bracket begins at $751,601.
- Observations
  1. **Only lose $5,400** in itemized deductions.
  2. Itemized deductions of $100,000 have *already* been reduced for SALT phaseout and .5% charitable floor.
  3. Same $5,400 phase out if income were $1 *trillion*.

Limitation on Itemized Deductions			
Step 1			
Taxable income	$ 1,000,000,000		
Itemized deductions (after other limitations -1-)	$ 100,000		$ 100,000
	$ 1,000,100,000		
Beginning of 37% bracket	$ (751,601)		
(Taxable income + itemized) > beginning of 37% bracket)	$ 999,348,399		
Step 2 - Compare step 1 to itemized and pick ***lesser***			
Taxable income + Itemized > beginning of 37% bracket	$ 999,348,399		
Itemized deductions	$ 100,000		
Lesser of the two		$100,000	
Loss of itemized deductions		5.4%	$ (5,400)
Total allowed itemized deductions			$ 94,600
-1- Deductions have already been reduced by SALT phase-out and .5% charitable deduction floor.			

Charitable Contributions Deduction Floor

- Itemized charitable deductions.
- A new floor .5% of AGI floor beginning in 2026.
  - *Example*
    - AGI = $200,000.
    - Charitable contributions = $10,000

Contributions		$10,000
Floor		
AGI	$200,000	
Percentage	.5%	($1,000)
Allowed deduction		$9,000

Draft Form 1040

TREASURY/IRS AND OMB USE ONLY DRAFT

Form 1040 (2026) Page **2**

Tax and Credits

	11b	Amount from line 11a (adjusted gross income)	11b
	12a	Someone can claim ☐ You as a dependent ☐ Your spouse as a dependent	
	12b	☐ Spouse itemizes on a separate return **12c** ☐ You were a dual-status alien	
	12d	**You:** ☐ Were born before January 2, 1962 ☐ Are blind	
		Spouse: ☐ Was born before January 2, 1962 ☐ Is blind	
Standard deduction for— • Single or Married filing separately, $16,100 • Married filing jointly or Qualifying surviving spouse, $32,200 • Head of household, $24,150 • If you checked a box on line 12a, 12b, 12c, or 12d, see inst.	12e	**Standard deduction or itemized deductions** (from Schedule A)	12e
	12f	Charitable contribution deduction for non-itemizers (see instructions)	12f
	13a	Additional deductions from Schedule 1-A, line 44	13a
	13b	Qualified business income deduction from Form 8995 or Form 8995-A	13b
	14	Add lines 12e, 12f, 13a, and 13b	14
	15	Subtract line 14 from line 11b. If zero or less, enter -0-. This is your **taxable income**	15
	16	**Tax** (see instructions). Check if any from Form(s): **1** ☐ 8814 **2** ☐ 4972 **3** ☐	16
	17	Amount from Schedule 2, line 3	17
	18	Add lines 16 and 17	18
	19	Child tax credit or credit for other dependents from Schedule 8812	19
	20	Amount from Schedule 3, line 8	20
	21	Add lines 19 and 20	21
	22	Subtract line 21 from line 18. If zero or less, enter -0-	22
	23	Additional taxes, including self-employment tax, from Schedule 2, line 21	23
	24a	Add lines 22 and 23. This is your **total tax**	24a
	24b	Enter amount from Form 1062, line 15	24b
	24c	Add lines 24a and 24b	24c

Charitable Contributions Deduction

- Charitable deduction for *cash* contributions: nonitemizers (2026).
  - Limits: $1,000 single; $2,000 MFJ.
    - Must be to public charities and can't be to a donor-advised fund.
- Planning: For clients who *don't* itemize.
  - Start keeping receipts or acknowledgements in **2026**!
- **Nonitemizer deduction is not** subject to 0.5% floor.
  - Sometimes you'll be better off ***not*** electing to itemize. §63(b).
    - *Example* – in 2026 cash contributions $2,000, net itemized (over standard deduction) $800. Don't itemize: standard deduction + $2,000 beats itemizing by $1,200.

Donor-Advised Funds

- Bloomberg: between 2020-2024, contributions to donor-advised funds (DAFs) almost doubled.
- DAFs provide significant advantages:
  - Large contribution in one year, then no contributions for next several years.
    - You can "*coast*" on the standard deduction for the later years.
      - **Higher income** clients are phased out of new $40,400 (2026) SALT limit and often don't itemize.
- After OB3, they can use DAFs to *reduce effect* of the **0.5% floor** on charitable contributions.
  1. They'll only have the **0.5% floor** in the **year they fund** the DAFs.
     - In later years they can "coast" without being affected by the 0.5% floor.
  2. **In years they're coasting, they can use the non-itemizers' deduction.**
     - I just did this with a Wikipedia donation (it's a "coast year" but I wanted to give).

NEW IRC §68 / JCT BLUEBOOK FOOTNOTE 102

Does the 2/37ths haircut reach distribution deductions?

Estates and nongrantor trusts • Taxable years beginning after December 31, 2025

The statute

New §68 reduces itemized deductions by 2/37 of the lesser of those deductions or the excess of taxable income, before §68 and with those deductions added back, over the 37% bracket threshold.

Congress removed former §68(e)'s blanket exception for trusts and estates.

Footnote 102's reading

JCT treats the §642(b) exemption and §§651/661 distribution deductions as itemized under §§63(d) and 641(b).

It reads §67(e) and Reg. §1.67-4 as limited to §67. That scope question is the central dispute.

Why it matters

The addback can trigger §68 even when the trust distributes all DNI. The beneficiary's inclusion does not automatically fall by the haircut.

For 2026, the relevant trust and estate bracket threshold is $16,000.

Sources: IRC §§63, 67, 68, 641–643, 651–652, 661–662 • JCT, JCS-1-26, pp. 26–27, n.102 • Rev. Proc. 2025-32

Example: $386,000 of DNI, all distributed

Simple trust, 2026 • Taxable interest = DNI • $300 exemption • No other items • Tax paid from corpus

Trust return and K-1	No haircut	Footnote 102
Trust income = DNI	$386,000	$386,000
§651 deduction before §68	(386,000)	(386,000)
§642(b) exemption before §68	(300)	(300)
§68 reduction added back	0	+20,000
Income subject to trust tax	0	19,700
Regular federal income tax	$0	$5,220
Beneficiary includes (§652)	$386,000	$386,000

$19,700 remains taxable to the trust while the beneficiary includes the full $386,000.

How the haircut is figured

Taxable income before §68: −$300

(A) Deductions: $386,300

(B) −$300 + $386,300 − $16,000
= $370,000

Haircut: 2/37 × $370,000 = $20,000

Tax: $3,851 + 37% × $3,700
= $5,220

Assumptions hold DNI at $386,000. Regular federal income tax only. 2026 brackets: Rev. Proc. 2025-32, §4.01, Table 5.

Taxpayer arguments: the Code

§641(b)'s exception	The "except as otherwise provided in this part" language preserves Subchapter J. Read §68 consistently with its coordinated deductions and beneficiary inclusions.
Trust AGI and §63(d)	Section 67(e) places these deductions above the line. Section 1411 expressly adopts its trust AGI definition. Extending that treatment to §68 remains disputed.
Repeal versus classification	Removing former §68(e) reaches ordinary trust itemized deductions. It need not reclassify the distribution deduction as itemized.
The conduit mismatch	Adding back distributions can trigger the haircut even when all DNI passes to beneficiaries. Section 68 provides no matching reduction in beneficiary income.
The exemption analogy	Section 642(b)(3) grants the trust exemption "in lieu of" §151. This supports an analogy to §63(d)(2), but does not itself protect distribution deductions.

Sources: IRC §§63(d), 67(e), 68, 641(b), 642(b)(3), 651–652, 661–662 and 1411(a)(2)(B)(i). These are interpretive arguments.

Taxpayer arguments: regulations and case law

REGULATION AND BLUEBOOK

Reg. §1.67-4(a)(1)(ii)

Classifies §67(e) deductions as outside §63(d)'s itemized deductions. The dispute is how far that classification extends.

T.D. 9918 preamble (2020)

Confirms above-the-line treatment under §62(a). Its §67 context supplies the government's limiting argument.

United States v. Woods, 571 U.S. 31 (2013)

A post-enactment Bluebook is not controlling legislative history. Its reasoning may still persuade a court.

CONDUIT TREATMENT AND DOUBLE TAXATION

United California Bank, 439 U.S. 180 (1978)

Supports the conduit rationale. The 6–3 holding involved charitable distributions and a former alternative tax.

Freuler v. Helvering, 291 U.S. 35 (1934)

Attributes currently distributable income to the beneficiary. It supports the allocation principle, not immunity from later limits.

Limit of the double-tax argument

These cases support a reading where text is ambiguous. They do not establish a categorical bar to overlapping taxation.

Tax Aware Investing



My Story

- 25 years ago, a client faced a $20 million capital gain.
  - He found a Swiss private-insurance plan claiming to eliminate the tax.
- We flew to meet the promoter, but the *business terms* were troubling.
  - Fees exceeded the tax savings, and his money was tied up until death.
  - I explained those flaws on our flight back to Seattle.
- Today: we'll cover **two *accepted*** strategies and **two *controversial*** strategies.
  - There are ***many other*** "tax aware" strategies the IRS is questioning. Notice 2026-62.
    - Identified straddles with mixed character, same-day acquisitions and dispositions of foreign currency forward contracts, etc.
  - **Senator Wyden** plans **investigation** of these strategies.

Growth of Tax-Aware Industry

- Funds in “tax aware” investing strategies:
  - 2023: $6.7 billion.
  - 2026: about $190 billion (Tax Alpha Insider estimate).
- Treasury officials spoke at Wall Street Tax Association meeting on July 21, 2026.
  - IRS interested in some “tax aware” strategies.
- IRS issued a revenue ruling on aggressive section 351 transactions. Rev. Rul. 2026-20 (Sept. 28, 2026).
- IRS issued Notice 2026-62 that requested comments on some tax-aware strategies.
  - Ultimate guidance may be retroactive.
  - Potential identification as “listed transaction” or “transaction of interest”

Traditional Tax-Loss Harvesting

- Sell an existing stock at a loss in a ***taxable account.***
  - Immediately buy a ***similar*** security that is **not substantially identical** (**to reduce *economic* risk**).
- Wash-sale window: **30 days before through 30 days after** the loss sale.
  - Example (me)
    - Municipal bond fund – FMV dropped after 2026 interest-rate increase.
      - **Sold my fund**, then **bought** *similar* but ***not*** "***substantially identical***" muni bond fund.
        - **Tax loss** *but reduced risk by buying similar muni bond fund.*
      - 32 days later (just to be safe), I sold new muni fund.
        - And repurchased my old muni fund.
- This is a legitimate, safe tax strategy.

Direct Indexing

- Own index components directly, such as S&P 500 stocks.
  - *Example* – in your brokerage account, you own ***all*** 500 S&P index stocks.
    - 500 stocks total, so you match the index.
- **Sell *losing* stocks** or tax lots while ***retaining* gain stocks**.
  - Reinvest loss stocks in similar stocks that are **not substantially identical**.
- Individual stock losses may exist even when the overall index rises.
  - **Example:** Lululemon has $16,000 loss.
    - Sell Lululemon, buy similar stock.
    - Don't sell stocks with gains.
- If you have ***500 stocks*** in your brokerage accounts, there will be ***some* losers each year**.
  - Notice 2026-62 recognizes this ***established*** harvesting approach that's consistent with the intent of Congress.

Owning a Fund: No Loss to Harvest (Like S&P 500 Fund)



Phil owns index *fund*, not individual stocks

Owns

Index *Fund*

Microsoft
$60,000 → $96,000
+60%

Lululemon
$40,000 → $24,000
–40%

Loss stays inside the fund

Fund shares
Cost $100,000
Value $120,000
+20%

No loss to harvest (*gain* on index *fund*)

Index Fund: One Holding on the Statement

BROKERAGE STATEMENT

Account owner: Phil

1 fund holding

Holding	Cost basis	Market value	Unrealized gain (loss)
S&P 500 index fund	$500,000	$520,000	+$20,000
Account total	**$500,000**	**$520,000**	+$20,000

Phil owns shares of the fund

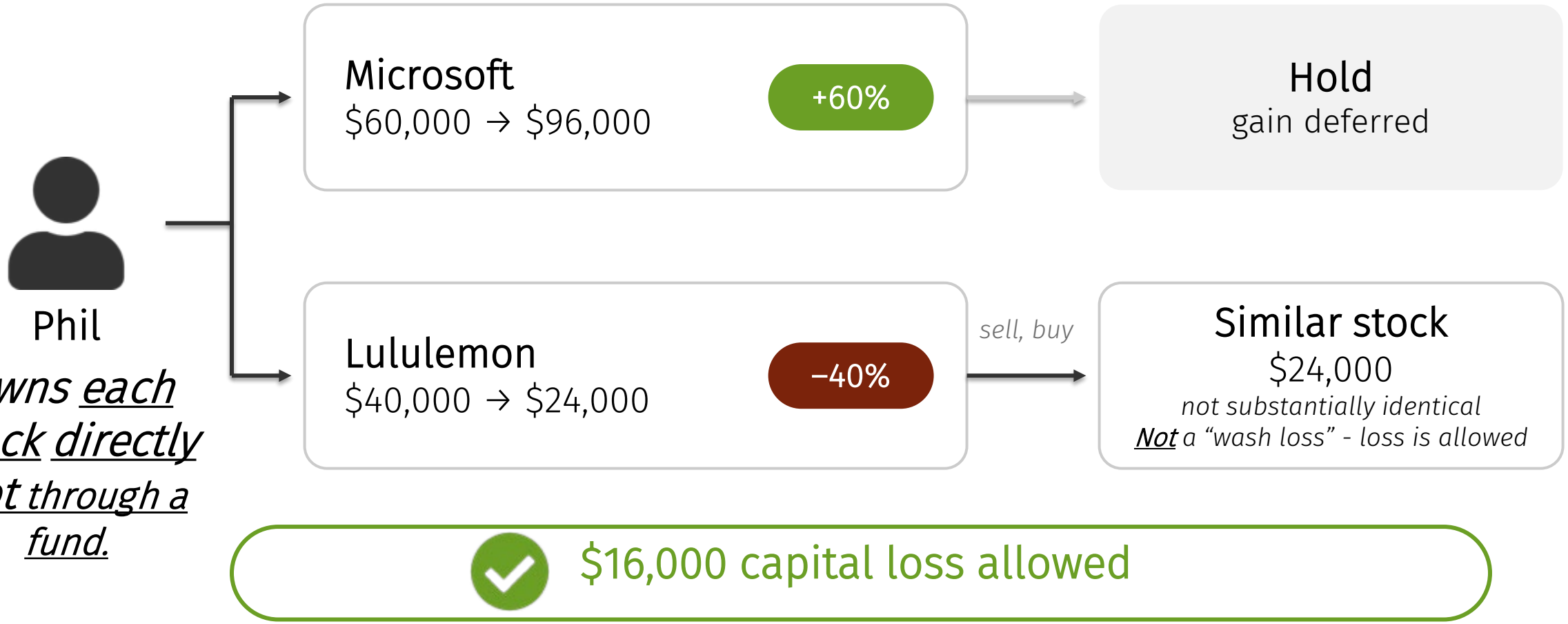
The underlying stocks do not appear as separate holdings.

No fund-share loss to harvest

Phil cannot sell the fund's Lululemon shares separately.

 Illustrative statement. Amounts are hypothetical.

Direct Indexing: Harvest the Loss (Own Stocks Directly)



Notice 2026-62 §3.01: a ***long-standing, well-established*** technique.

Direct Indexing: Individual Stock Holdings

BROKERAGE STATEMENT

Account owner: Phil

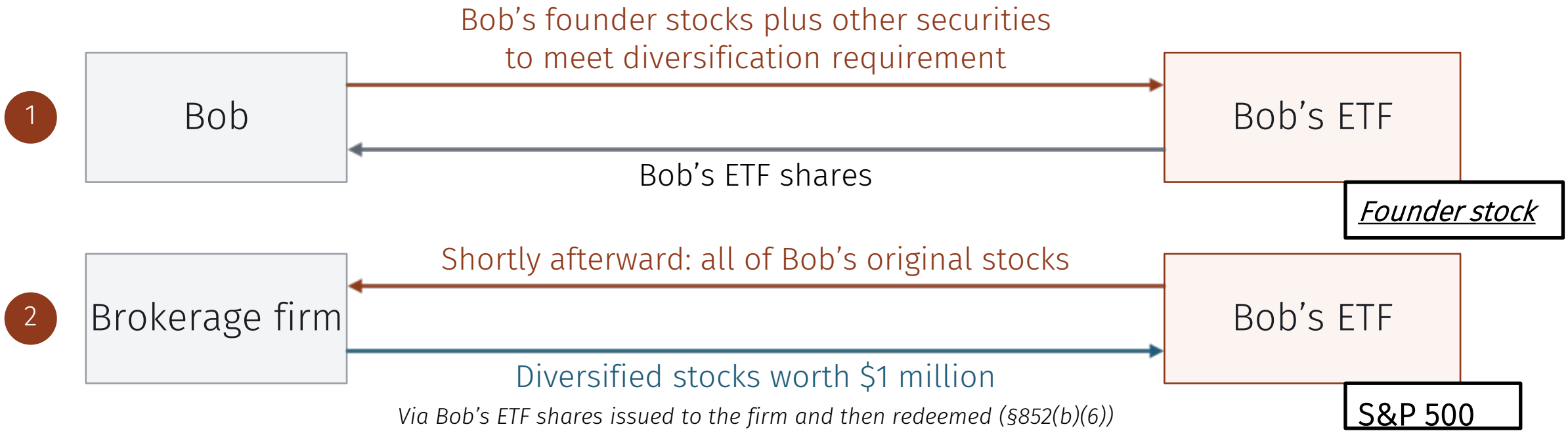
10 stock holdings

Holding	Cost basis	Market value	Unrealized gain (loss)
Microsoft (MSFT)	$60,000	$96,000	+$36,000
Lululemon (LULU)	$40,000	$24,000	($16,000)
Apple (AAPL)	$50,000	$50,000	$0
NVIDIA (NVDA)	$50,000	$50,000	$0
Amazon (AMZN)	$50,000	$50,000	$0
Alphabet (GOOGL)	$50,000	$50,000	$0
Meta Platforms (META)	$50,000	$50,000	$0
Berkshire Hathaway (BRK.B)	$50,000	$50,000	$0
JPMorgan Chase (JPM)	$50,000	$50,000	$0
Exxon Mobil (XOM)	$50,000	$50,000	$0
Account total	**$500,000**	**$520,000**	+$20,000

Harvest Lululemon's $16,000 *loss* while *keeping Microsoft*

Simplified 10-stock illustration. Amounts and weights are hypothetical. Wash-sale rules apply.

Controversial: Bob's ETF Contribution: Rev. Rul. 2026-20



Promoter's claim: **Tax free**.

- IRS: **Bob recognizes $800,000 of gain** (step transaction, substance over form).

Assume a diversified portfolio, a newly formed ETF qualifying as a RIC, and unchanged values.

Ordinary Losses – Selective Swap Terminations

- A $30,000 **profit** becomes a $20,000 *ordinary* tax loss

Position	Year-1 result	What the Fund Does	Tax result
Stock A	+$30,000	Keep — not sold	Deferred — no tax yet
Stock B	+$20,000	Keep — not sold	Deferred — no tax yet
C · swap	−$25,000 (stock fell)	**Hold** through **payment date**	Ordinary loss −$25,000
D · swap	−$25,000 (stock rose)	**Hold** through **payment date**	Ordinary loss −$25,000
E · swap	+$15,000 (stock fell)	**End** swap **just before payment**	ST Capital gain +$15,000
F · swap	+$15,000 (stock fell)	**End** swap **just before payment**	ST Capital gain +$15,000

Ordinary loss

−$50,000

Offsets *wages* and *business* income

Capital gain

+$30,000

Winning swaps ended before payment

Deferred gain

$50,000

Winning stocks kept; not taxed yet

Net taxable income

−$20,000

≈$7,400 less tax (37% × $20,000)

Illustrative. Ordinary: Treas. Reg. §1.446-3; capital: §1234A. Pattern from Notice 2026-62 §3.04.

Ordinary Losses: Material Participation *Not* Required

Trader fund is a business	This qualifies as a trader fund conducting a securities trading ***business*** for its investors.
Trading exception	Temp. Reg. §1.469-1T(e)(6) treats trading personal property for the owners' accounts as ***nonpassive***.
Investor's result	• Investors ***need no material participation***. • Qualifying ordinary losses may offset wages and other ordinary income. • **Note**: Treasury could easily revise the regulation (only gain is nonpassive, losses are passive). • Basis (§704(d)), at-risk (§465), and excess business loss • (§461(l)) limitations can still restrict the deduction.

Authority: Temp. Reg. §1.469-1T(e)(6)(i), (iii). Ordinary loss character remains a separate requirement.

What Could Go Wrong?

- Largest tax-aware provider warns of tax risks:

> Unavailability of potential tax benefits. The expected tax benefits associated with the tax-aware strategy may be less than expected or may not materialize due to the economic performance of the strategy, an investor's particular circumstances, prospective or retroactive changes in applicable tax law, and/or a successful challenge by the IRS. In the case of an IRS challenge, penalties may apply.

- IRS *could* prevail on several technical arguments.
  - Substitute for ordinary income, economic substance, substance over form, regulatory swap anti-abuse language.
  - In part will depend upon terms (e.g., swaps) and trading records.
    - But promoter *might* also prevail.
- Client *risks* include:
  1. If IRS designates as a listed transaction/transaction of interest (which they're considering) – *and* Senator Wyden is pushing for.
  2. Penalties and interest.
  3. *Significant* drop in life quality (battling this out with the IRS).
  4. Costs might be > *tax savings* (Elm Wealth, "Robbing Peter to Pay Paul").
  5. Tax investing requirements might *reduce overall return* on investment.
- Our *risks*: Malpractice claim, substantial drop in life quality, etc.
  - Most practitioners: flag the risks, consider disclosure for penalty protection, or refer outside the firm.

Trump Accounts



Trump Accounts

TD 10056

- On Sept 29th Treasury issued new temporary and proposed regulations.
  - At the same time, they pulled the prior proposed regs that had been issued in March (REG-117270-25).
- New regs provide IRS will establish Trump Accounts for eligible beneficiaries.
  - Roughly 60 million new accounts were established on October 1, 2026.
- No future Forms 4547's required to ***set up*** accounts.
  - **But *need* to elect to receive "pilot" contribution."**
    - $1,000 for children born between 2025-2028.
- New ***auto*** enrolled accounts need to be "claimed."
  - Claiming account generally isn't urgent.
  - It can be claimed even after beneficiary turns 18.
  - But **must "claim" account** for family, friends and employers to make contributions.

Trump Accounts

$1,000 “Pilot” Contributions

- Eligible children:
  1. Born in 2025, 2026, 2027, or 2028,
  2. Has a Social Security Number,
  3. U.S. citizen, and
  4. Election made by person who anticipates the child will be their “qualifying child.”
- $1,000 government contribution **doesn’t** count against the $5,000 annual contribution limit. REG-117002-25 preamble.
  - *Example*
    - Child receives $1,000 from government in 2026.
      - $5,000 of additional contributions can be made from family.
      - $6,000 total

Trump Accounts

$1,000 Government Contributions

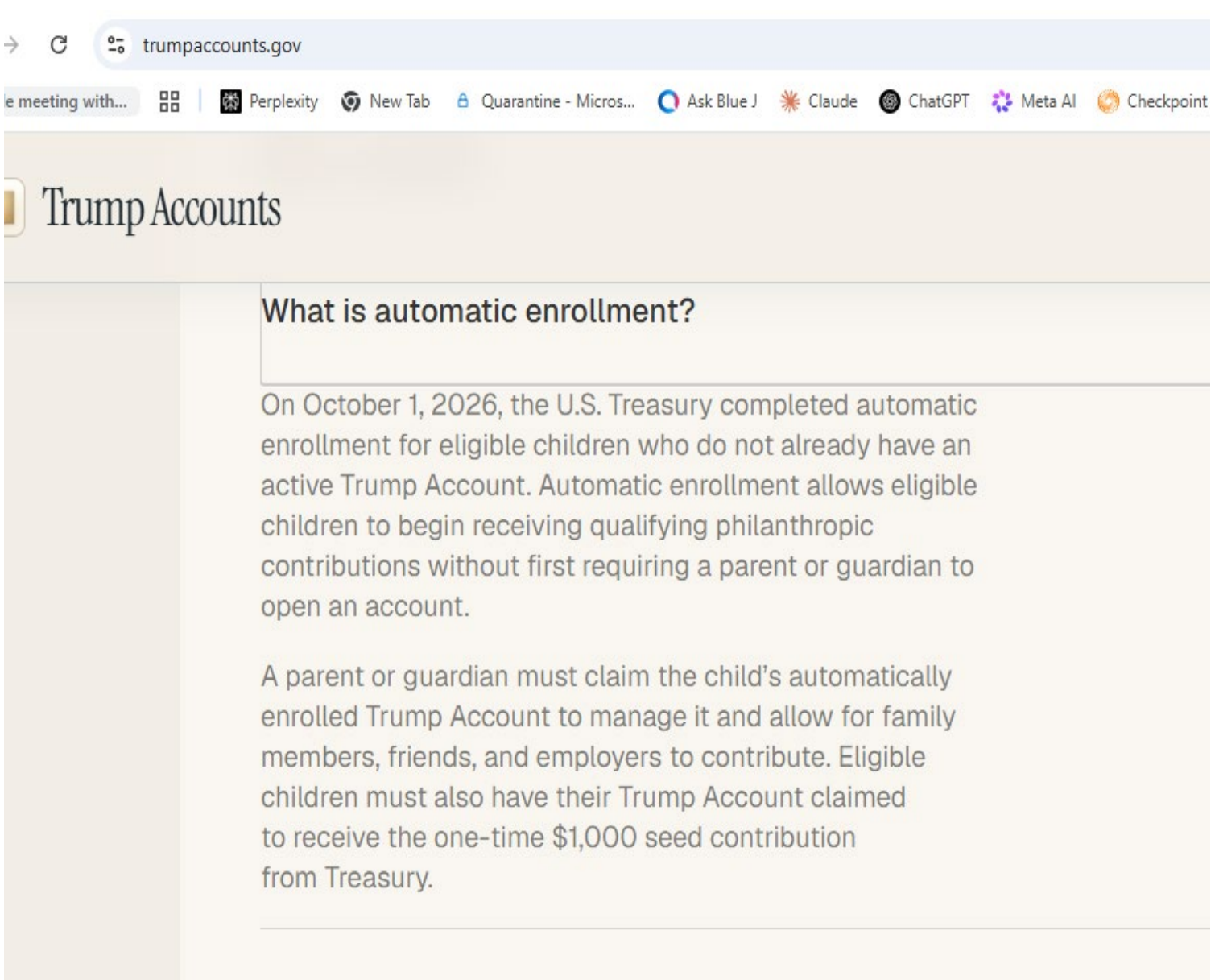
- Must ***elect*** to receive $1,000 government contribution (***even if*** you're **auto enrolled**).
  - Election can be made ***years after*** **child is born**.
    - *Example*
      - Betty is born in July 2026.
        - Her growth period will end December 31, 2043.
      - I'd recommend electing s*hortly* after Betty is born.
        - More time for funds to grow.
      - I'd also review the account balance with her periodically, so she learns investing strategies.

Claiming the Pilot Contribution

- Example
  - Amy was born September 25, 2026.
    - Parents hadn't yet set up a Trump account as of October 1.
  - Amy was auto enrolled on October 1, 2026.
    - Her account won't be credited with a $1,000 pilot contribution.
      - Her parents will need to "*claim*" her account before the $1,000 contribution will be made.
    - Amy's parents will need to claim the account to be able to make contributions.
- Note: Much more efficient for her parents to "claim" the account and make the election at the same time.

Trumpaccounts.gov

Automatic Enrollment



Trumpaccounts.gov

Claiming an *Auto Enrolled* Account

If my child is automatically enrolled in a Trump Account, do I still need to do anything?

Yes. You must still claim your child's Trump Account to control the account, manage investments, and enable contributions from family, friends, and eligible employers.

How do I claim my child's Trump Account?

Download the official Trump Accounts app to claim your child's account. During the claiming process, you'll verify your identity, confirm your relationship to your child, review your child's information, and accept the account terms. You can also claim a one-time $1,000 seed contribution from Treasury if your child is eligible.

Who can I call with questions?

If you have questions about Trump Accounts, call the Trump Account call center at **866-USA-4547**.

IRS Trump Account FAQs

https://www.irs.gov/faqs/trump-accounts-frequently-asked-questions?utm_source=chatgpt.com

Trump Accounts - Frequently asked questions

4. How do I claim my child's Trump Account?

Use the Trump Accounts app or website to claim your child's account.

1. Download the app from the Apple App Store or Google Play, or visit the Trump Accounts website.
2. Follow the instructions to verify your identity and your authority to manage the account.
3. Complete the steps to claim and activate the account.

To avoid delays, make sure the information you provide for yourself and your child, including names, Social Security numbers and dates of birth, matches Social Security Administration records.

5. How do I elect the $1,000 pilot contribution?

The federal government provides a one-time $1,000 contribution to Trump Accounts for eligible U.S. citizens born from Jan. 1, 2025, through Dec. 31, 2028.

To request the contribution, submit Form 4547, Trump Account Election(s), and select the option for the $1,000 pilot program contribution.

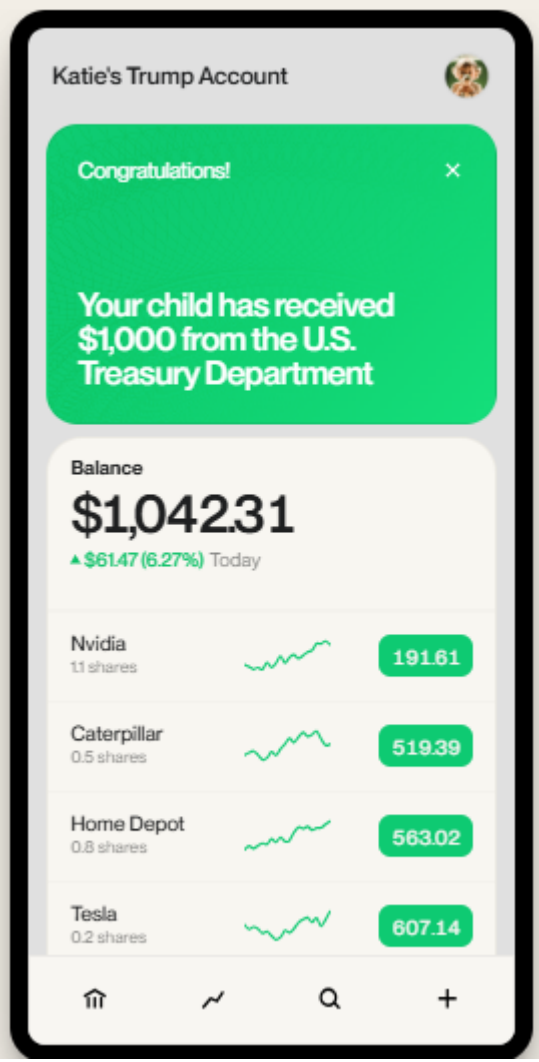
You can submit Form 4547 through the Trump Accounts app, the Trump Accounts website or your IRS Individual Online Account.

If you already requested the contribution, you do not need to submit another election.

Dalio, Musk, and Bisignano Gifts

- Dells pledged $6.25 billion to Trump accounts:
- Ray Dalio (Bridgewater Associates) also pledged.
  - $250 per child for kids in Connecticut who live in zip codes where median income is less than $150,000.
- Elon Musk (Oct. 19, 2026): one SpaceX share “to every kid in America” next year — no income test ($10.5 billion).
  - SpaceX President Gwynne Shotwell: SpaceX shares for **ages 11–17 in ZIP codes** with **median family income ≤ $57,000**.
- IRS CEO Frank Bisignano gave $250 to every child aged 2–8 in his childhood ZIP code (11234, Brooklyn).
- They’ll be able to claim **charitable deductions** if structured properly. 1.530A-7T(e)(1)

Purpose



- Bipartisan support.
  - Began as Sen. Cruz's Invest America Act; echoes Sen. Booker's 2018 "Baby Bonds."
- Purpose of Trump accounts:
  - Improve financial literacy in children.
    1. They can **see markets rise**.
       - *Benefits* of saving and investing.
    2. **Markets drop** (and later rise).
       - To **teach patience** with investments.
- Contributing max $5,000/year over 18 years
  - $303,800 after compounding (assumes ~11.75%/yr; about $250,800 at 10%).
  - Of course, could get same return by investing in taxable account w/index funds over 18 years.
    - No risk of 10% early withdrawal penalty.
    - *But no Roth conversion* ability.

Trump Accounts

New Form 5498-TA

- New Form 5498-TA

TREASURY/IRS AND OMB USE ONLY DRAFT

3838 ☐ VOID ☐ CORRECTED

TRUSTEE'S name				1 Pilot program and qualified general contributions $	OMB No. 1545-0747 Form 5498-TA (December 2026) For calendar year
Street address			Room/suite no.	2 Qualified rollover contributions $	
City/town	State/province	Country	ZIP/foreign code		
TRUSTEE'S TIN	BENEFICIARY'S TIN			3 Section 128 employer contributions $	4 Other contributions $
BENEFICIARY'S name				5 Basis or investment in the contract $	6 FMV of account $
Street address			Apt. no.		
City/town	State/province	Country	ZIP/foreign code		
Account number (see instructions)					

Trump Account Contribution Information

Copy A
For Internal Revenue Service Center

For filing information, Privacy Act, and Paperwork Reduction Act Notice, see the **General Instructions for Certain Information Returns**.

www.irs.gov/Form1099

Form **5498-TA** (12-2026) Created 3/31/26 Cat. No. 95947G www.irs.gov/Form5498TA Department of the Treasury - Internal Revenue Service

Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page

The information on Form 5498-TA is furnished to you by the trustee of your Trump account. Form 5498-TA reports contributions, rollovers, basis or investment in the contract, and the fair market value (FMV) of the account for the calendar year shown on this form. For more information about Trump accounts, see Pubs. 590-A and 590-B.

Beneficiary's taxpayer identification number (TIN). For your protection, this form may show only the last four digits of your TIN (social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN)). However, the trustee has reported your complete TIN to the IRS.

Account number. May show an account or other unique number the trustee assigned to distinguish your account.

Box 1. Shows the amount of pilot program and qualified general contributions made to this Trump account in the calendar year shown on this form.

this Trump account in the calendar year shown on this form.

Box 3. Shows the amount of section 128 employer contributions made to this Trump account in the calendar year shown on this form.

Box 4. Shows the amount of other contributions (excluding pilot program, qualified general, qualified rollover, and section 128 employer contributions) made to this Trump account in the calendar year shown on this form.

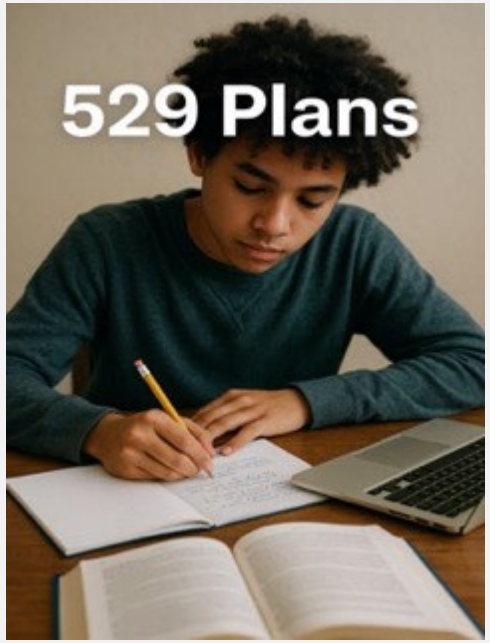
Box 5. Shows the basis or investment in the contract.

Box 6. Shows the FMV of the Trump account as of the end of the year.

Future developments. For the latest information about developments related to Form 5498-TA and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/Form5498TA*.

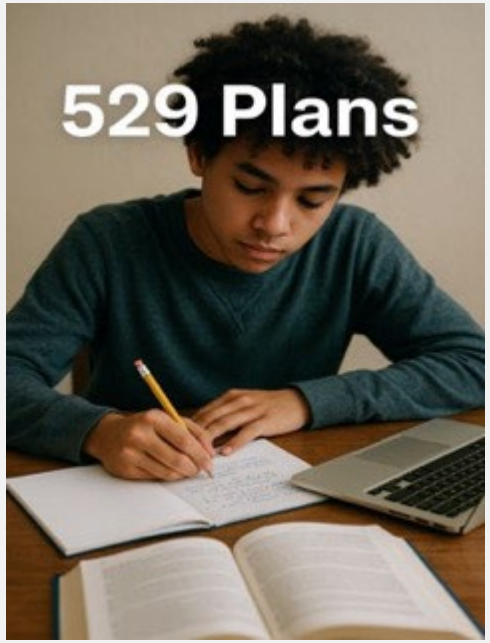
Free File Program. Go to *www.irs.gov/FreeFile* to see if you qualify for no-cost online federal tax preparation, e-filing, and direct deposit or payment options.

Trump Accounts v QTPs



- I'd ***start*** with $1,000 pilot government contribution.
  - ***Then*** **shift** contributions to **section 529** (QTP) plan, accumulating enough to grow to $35,000.
  - You maintain control over QTPs.
    - Will an 18-year-old be ready to handle the money?
- **Rollovers** from 529 to Roth are ***tax-free***.
- 529 to Roth rollover ***limits*** (*all* 5 apply):
  1. $7,500 per year (**2026** Roth limit).
  2. Lifetime limit of $35,000 (not indexed for inflation).
  3. 529 beneficiary's earned income.
  4. 529 must have been maintained for at least 15 years.
  5. Funds rolled over must've been in 529 at least 5 years.

Trump Accounts v QTPs



- *Example*
  - Grandparents contributed to 529 plan 16 years ago.
  - Grandchild has earned income of at least $7,500.
    - 2026: 529 rollover of $7,500 max for 2026.
      - Reduced if grandchild contributes own funds to Roth.
    - Additional $27,500 in future years (*if* earned income).

Gift Tax Filing Exemption

RP 2026-25

- There was a **concern** that a gift to a Trump account was a "*future interest*."
  - Gift tax return even if only gift $5,000 to Trump account.
- RP 2026-25 ***removes*** this issue (no 709 req'd.)
- Example
  - G makes 2026 gift of $5,000 to Ethan's Trump account.
    - Also makes cash gift of $13,000 to Ethan.
    - Total gifts = $18,000 (under $19,000 gift tax exclusion)
    - No gift tax return required as long as:
      - Not otherwise required to file a gift tax return (e.g., no taxable gifts to other persons, etc.)
  - *But* if cash gift was $14,500 would **require gift tax return**.
    - Total including Trump contribution > $19,000 ($5,000 + $14,500).

AI and Tax



Tax Law Is the Most Complicated area of U.S. Law

- Stanford and Yale law school professors studied how well AI answers legal questions.
- Julian Nyarko (Stanford), Sarath Sanga (Yale),and colleagues

75%

of the time, **professors preferred AI answers** to other professors' answers

- Blind study: 16 law professors evaluated nearly 3,000 anonymized answer comparisons.
- The questions concerned contract law.

https://law.stanford.edu/stanford-lawyer/articles/the-better-answer-was-ai/

AI Answers Raised Fewer Concerns

- Professors flagged answers as potentially
- misleading or harmful:

3.5%

AI answers

12%

Professors' answers

- AI systems performed comparably to the best human instructor in the study.
- **For tax professionals**: AI can help explain complex rules and test competing arguments. Verify the supporting authority.

https://law.stanford.edu/stanford-lawyer/articles/the-better-answer-was-ai/

Qualified Elementary and Secondary Education Scholarships



States Electing to Participate in 100% Scholarship Credit

Effective for *2027*

Participating states for 2027 (as of October 22, 2026)

The following states have elected to participate under Section 25F for 2027:

Participating states	
Alabama	Nebraska
Alaska	Nevada
Arkansas	New Hampshire
Colorado	North Dakota
Florida	North Carolina
Georgia	Ohio
Idaho	Oklahoma
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Utah
Mississippi	Virginia
Missouri	West Virginia
Montana	Wyoming

- Note: New York's governor announced it would participate but *not* included on IRS's list yet.

States Electing to Participate in *100% Scholarship Credit*

Effective for *2027*

- Bipartisan appeal.
  - Public school districts are setting up SGOs.
  - Children's Scholarship Fund served more than 35,000 children in 2024–25 (including partner programs). Its president estimated tutoring New York fourth-graders reading below grade level at about $1,500 per student; City Journal suggested the credit could fund it.
- 30 states have opted in so far.
  - *And* NY has announced its intention to "opt-in"
  - More states may opt-in.
    - E.g., **Washinton state** is considering opting in.

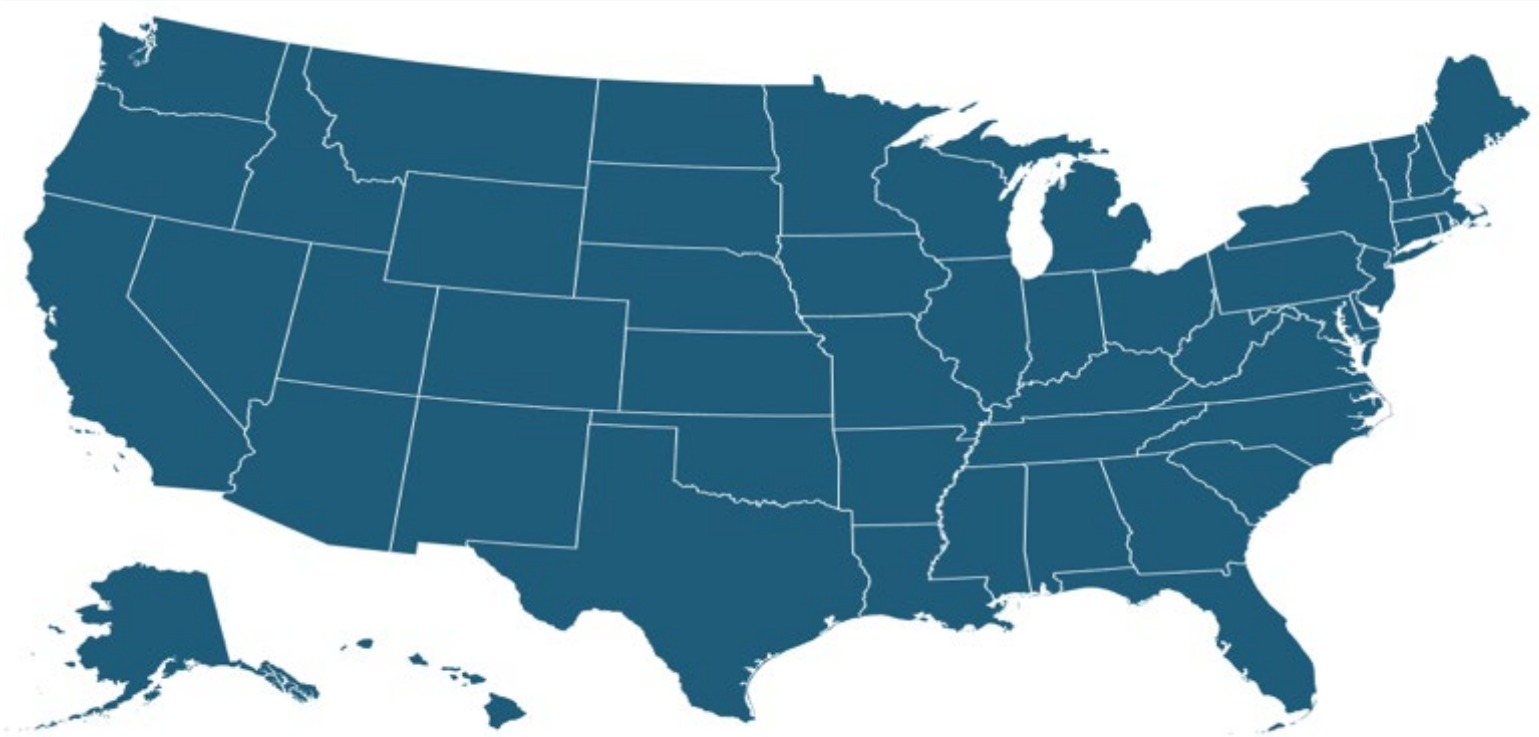
Scholarship Credits

- From 2027, §25F offers up to $1,700 per individual for cash gifts to a "scholarship granting organization" (SGO).
  - *It doesn't cost you anything.*
  - Direct contribution towards *public* schools *tutoring*, etc.
    - By picking SGO that meets your objectives.
    - RESCHOOL has paid for tutoring in Colorado.
- Example: Russ (single) gives $1,700 to approved SGO (funds scholarships for tutoring underperforming 4th graders) from families below the poverty line.
  - If he can use full $1,700 credit and gets no state credit, his **net after-tax cost is $0**.
  - You'll need to *find* an **SGO** that **matches *your* objectives**.

IRC §§25F, 530(b)(3)(A). RESCHOOL, Learning Dollars.

Qualifying for the *Credit*

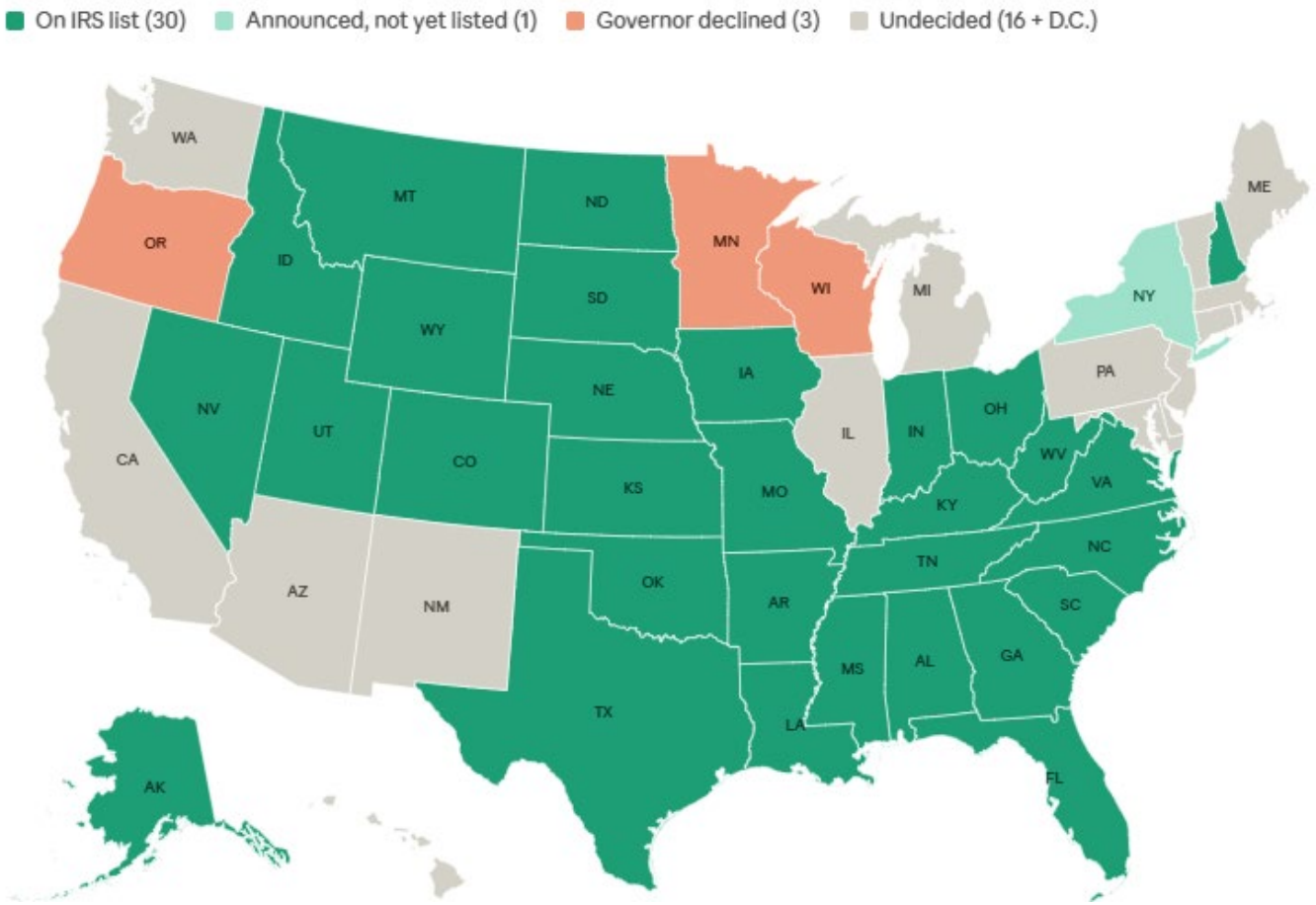
- Residents of ***all*** **states** can **get** the **credit**.



- Example
  - Barry resides in Washington (WA *hasn't* opted in).
    - Barry **qualifies** for **credit** by a donation to SGO that provides scholarships to Colorado students, Idaho students, etc.

Qualifying for a *Scholarship*

- Students who **reside** in **opt-in** states can **qualify**.



- *Example*
  - Quan (2nd grader) in Texas can receive scholarship.
  - Sinlu (2nd grader) in Washington can ***not***.

Prop. Reg. §1.25F-3(c)(7)(i)–(iii).

No Donor Income Limit

- The donor's income does not phase out the §25F credit.
- As with §529 contributions, high donor income does not bar participation.
  - *Example*: Mark has $1 billion of income in 2027 and makes a $1,700 qualifying contribution.
  - He can claim the full $1,700 credit, assuming sufficient tax liability and no state credit.

IRC §25F(a)–(c). IRS, 529 Plans: Questions and Answers.

No Need to *Itemize*

- Taxpayers can claim the §25F credit while taking the standard deduction.
  - *Example*: Judy takes the standard deduction and gives $1,700 cash to an approved SGO in 2027.
    - With sufficient tax liability and no state credit, her federal income tax is reduced by $1,700.
      - She won't be able to claim a charitable *deduction* for the same $1,700.
      - But her out-of-pocket is $0 after the credit.

IRC §25F(a), (e). Prop. Reg. §1.25F-2(f).

Computational Basics

- First year contribution can be made: **2027**.
  - Anticipate we'll be getting questions in early 2027.
    - A 100% credit is a remarkable thing.
- Only cash contributions by *individuals* qualify.
  - A partnership or S corporation's gift does *not* pass a §25F credit through to its owners.
- A DAF grant likely won't qualify: the gift must be "made by an individual." Prop. Reg. §1.25F-1(a)(12)(i).
- SGO's scholarships can be used for tuition, tutoring, special needs services, education technology, supplies, books, equipment, room and board, uniforms, transportation, after-school club fees, etc.

IRC §25F(b), (c), (e). Prop. Reg. §1.25F-2(a)(3), (f).

State Tax Credits

- Subtract state credits attributable to the qualified contribution before applying the $1,700 federal cap.
  - Example: Mark makes a $2,200 qualifying contribution and receives a $500 state credit.
  - Federal credit: $2,200 – $500 = $1,700.
  - Combined credits: $500 state + $1,700 federal = $2,200.

IRC §25F(b)(2). Prop. Reg. §1.25F-2(c).

Married Filing Jointly

- The statute says $1,700 *per taxpayer*.
  - Proposed regs apply separately to each spouse.
- Example: Russ and Maria each make a $1,700 qualifying contribution in 2027.
- Their **joint return** can claim **$3,400**, subject to their combined tax liability.
  - A $3,400 gift attributed solely to Russ yields only his $1,700 annual credit.
    - It *appears* important for Maria to make her *own* contribution.
  - Document a qualifying contribution and SGO acknowledgment for each spouse.

Prop. Reg. §1.25F-2(a)(2), (h)(2), Example 2.

Nonrefundable Credit

- The credit offsets available federal income tax liability, including AMT, after applicable other credits.
- Unused credit caused by the tax liability limit carries forward for up to five years.
  - Use carryforwards on a first-in, first-out basis.

IRC §§25F(f), 26(a). Prop. Reg. §1.25F-2(d), (e).

Administrative Basics

- **Choose** an approved **SGO** that **funds** the **educational needs *you*** want to support.
  - Only elementary and secondary education expenses qualify.
- Contributions must be made to qualifying SGO.
  - You can rely on IRS SGO list (IRS website) at the gift date.
    - IRS will publish later.
- *Designate* gift to SGO as a §25F contribution when paying.
- Eligible scholarship recipients income limit: 300% of area median gross income.
  - SGO can choose a *lower* qualifying income level.

Prop. Reg. §§1.25F-1(a)(12), 1.25F-2(a), (b).

Recap



- Inflation Adjustments
- Changes to Form 1040
- Itemized Deductions
  - High-income limit and charitable contributions
  - Trust and estate distribution deductions
- Tax Aware Investing
- Trump Accounts
- AI and Tax
- New primary and secondary scholarship credit.

Thank You