

**Hot Topics in
Farm Estate
Planning
&
Protecting the
Farm from
Third Parties**



GORDON
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Hot Topics

The One Big Beautiful Bill Act

...1,116 pages of fun!

What Changed:

- Individual Income Tax Brackets Adjusted Upward
 - E.g. 24% bracket started at \$100,526 for 2024 - will start at \$103,350 for 2025
- Standard Deduction Increased
 - \$15,750 / \$31,500 for this year
 - Indexed for inflation
- Child Tax Credit Increased
 - \$2,200 for this year
 - Indexed for inflation

What Changed:

- State and Local Tax (SALT) Deduction Cap Increased
 - \$40,000 cap for this year
 - Annual increase of 1%
 - Only through 2029
- Charitable Deduction for Itemizers Now Limited
 - Only contributions in excess of 0.5% of taxable income for individuals
 - Only contributions in excess of 1% of taxable income for corporations

What Changed:

- 529 Enhancements
 - Increased annual contribution limit to \$20,000
 - Expanded definition of qualified expenses
- HSA Access Expanded
 - Bronze and Catastrophic level plans now qualify as high-deductible plans
- Enhanced Premium Tax Credit for Qualified Health Plans
 - Will Expire at the End of 2025

What Changed:

- FSA Contribution Limit Increased
 - \$7,500 beginning in 2026
- Electric Vehicle Credits Will Expire
 - Buy your electric vehicle before Sept 30, 2025
- Residential Energy Credit Will Expire
 - December 31, 2025

What Changed:

- Energy Efficient Home Improvement Credit Will Expire
 - December 31, 2025
- Student Aid Eligibility Exemptions
 - Excludes a family farm on which the family resides
 - Excludes a family-owned/controlled small business with no more than 100 employees
 - Begins 2026-2027

What Changed:

- Section 179 Deduction Limit Increased
 - \$2.5M for this year
 - Indexed for inflation
- Special (Bonus) Depreciation Allowance Enhanced
 - Increased to 100% for purchases after January 19, 2025
 - Permitted for certain non-residential real estate, including some used in ag production

What Changed:

- Clean Fuels Production Credit Modified
 - Only applies to fuels made from feedstocks produced in the US, Mexico, or Canada
 - For transportation fuels, distinct emissions rate based on specific animal manure feedstock
 - Begins January 1, 2026
- Estate and Gift Tax Exemption Increased
 - \$15M / \$30M for 2026
 - Indexed for inflation

What Didn't Change:

- Individual Ordinary Income Tax Rate Cuts
 - 37% still the highest tax rate
- Mortgage Interest Deduction
 - Still limited to \$750,000 of Acquisition Debt
- Section 199A (QBI) Deduction
 - Rate remains at 20%

What Didn't Change:

- Employer Paid Family Medical Leave Credit
- Employer Student Loan Repayment Assistance Deduction
 - Up to \$5,250 per employee

What's Brand New:

- Bonus Deduction for Seniors (65+)
 - \$6,000 / \$12,000 for this year
 - On top of the \$2,000 Additional Standard Deduction for seniors
 - Only through 2028
- Vehicle Interest Deduction
 - Up to \$10,000 for certain vehicles assembled in the US
 - Only through in 2028

What's Brand New:

- Trump Accounts
 - Tax-favored investment accounts for minors.
 - Distributions prohibited until age 18
 - \$5,000 annual contribution limit (Indexed for inflation)
 - \$2,500 per employee annual contribution limit for employers
 - Federal gov't will contribute \$1,000 for each U.S. citizen born 2025-2028
- Charitable Deduction for Non-Itemizers
 - Up to \$1,000 / \$2,000
 - Begins in 2026

What's Brand New:

- Overtime Pay Deduction
 - Up to \$12,500 / \$25,000
 - Only applies to the “1/2” portion of time and a 1/2
 - Only through 2028
- Tip Income Deduction
 - Up to \$25,000 beginning this year
 - Only qualified professions – list will be published by October 2, 2025
 - Only through 2028

What's Brand New:

- Farmland Sales Tax Deferral
 - Capital gains can be paid over 4 years in annual installments
 - Must have been used in farming by a qualified farmer for the 10 years prior to sale
 - Must be used in farming for 10 years after sale

Other Ways the OBBBA Will Impact Agriculture:

- Higher Reference Prices for PRC and ARC
 - Estimated \$54B in additional payments
- 30M New Base Acres Authorized
- Increased Crop Insurance Support
 - \$6B over next 10 years

Other Ways the OBBBA Will Impact Agriculture:

- Livestock Indemnity Program Improvements
 - 100% coverage for predator loss
 - 75% coverage for mass loss due to disease or weather
 - \$3B in disaster assistance
- Ag Research Funding Boosts
 - Animal disease prevention
 - Climate-resilient crop development
 - Farm technology

Other Ways the OBBBA Will Impact Agriculture:

- Beginning Farmer and Rancher Benefits Enhanced
 - Definition extended to 10 years experience
 - Will receive additional premium discounts on top of existing subsidies
- Poultry Insurance Pilot Program
 - USDA directed to create program for contract growers
 - Must cover extreme weather-related utility costs
 - 2-year deadline

Protecting the Farm from Third Parties:

1

**Federal
Estate Taxes**

2

**Long-Term
Care Costs**

3

**Liability
Creditors**

Federal Estate Taxes:

- Current exemption: \$13.99M / \$27.98M
 - Must file a Form 706 Estate Tax Return at death of first spouse
- Exemption as of January 1, 2026: \$15M / \$30M
- Accurately estimate your current net worth
 - Use current real estate values
 - Include machinery, growing crops, stored grain
 - Include the death benefit of any life insurance

Federal Estate Taxes:

- If you are over the current or anticipated exemption, consider:
 - Using the annual gift tax exclusion
 - Using trusts

Federal Estate Taxes

- Use the annual gift tax exclusion
 - Currently \$19,000 per person per year
- Put assets into an LLC to get discounts
 - 225 acres of real estate (worth \$2.7M) into an LLC
 - 1% = \$27,000, but with a 30% discount = \$18,900
 - Give 1% to each of your 4 children and to each of their spouses
 - Gets \$216,000 out of your estate annually
 - \$2.16M in 10 years

Federal Estate Taxes

- Use trusts to keep appreciation outside your taxable estate
 - Spousal Lifetime Access Trusts (SLATs)
 - Intentionally Defective Grantor Trust (IDGT)
 - Grantor Retained Annuity Trust (GRAT)
 - Charitable Remainder Trust (CRT)
 - Credit Shelter Trusts (CST)
- Use trusts to hold life insurance to be used to pay estate taxes
 - Irrevocable Life Insurance Trust (ILIT)

Long-Term Care Costs

- 3 Primary Ways to Pay for Long-Term Care
 - Income Flow
 - Long-Term Care Insurance
 - Government Benefits

Long-Term Care Costs

- Pay for costs of care with income and liquid assets
- Estimate after-tax income as if 72 ½ or older and no longer farming
 - Include ALL sources of income
 - Social Security, Required Minimum Distributions, farm cash rent, etc...
- Compare that estimate against cost of long-term care: \$90,000/yr
- Will your liquid assets fill in any gap?

Long-Term Care Costs

- Pay for costs with long-term care insurance
 - In combination with income and liquid assets
- If you currently have long-term care insurance:
 - Review policy to determine whether to keep in place
 - Benefits per day?
 - For how long?
 - Do benefits increase with inflation?

Long-Term Care Costs

- If you do not currently have long-term care insurance:
 - If young and healthy:
 - Apply now
 - Will most likely be a hybrid policy
 - If older and/or unhealthy:
 - Apply now
 - Will likely be denied or have very high premiums

Long-Term Care Costs

- Pay for costs with Veteran's Benefits or Medicaid benefits
- If you are a Veteran
 - Visit local Veterans' services office to review your benefits
 - Will those benefits will be enough
- If you are not a Veteran (or your veterans' benefits are not adequate)
 - Meet with an attorney to discuss Medicaid eligibility

Long-Term Care Costs

- If neither you nor your spouse will need care in the next 5 years:
 - Determine what assets you most want to preserve:
 - Typically farm real estate
 - Sometimes residential real estate and/or large investment accounts
 - Get those assets out of your individual name(s):
 - Outright gifts
 - Gifts of real estate with retained life estates
 - Transfers to an LLC then an additional transfer of LLC interest
 - Gifts to an irrevocable trust

Long-Term Care Costs

- If the need for care is imminent:
 - Don't Panic
 - Meet with an attorney
 - Take advantage of:
 - Spousal impoverishment rules
 - Spend-down rules
 - Half-a-loaf gifting
 - Certain types of annuities

Long-Term Care Costs

- If the need for care less than 5 years away but not imminent:
 - Meet with an attorney
 - General Power of Attorney
 - Unlimited gifting
 - Health Care Advance Directive
 - Will or Trust Updated

Liability Creditors

- Injuries
 - E.g. Farm machinery accidents and road accidents
- Divorce of farm family members
- Financial creditors of farm family member

Liability Creditors

- Insurance
 - Carry enough homeowner's, vehicle, and farm liability insurance
 - Consider adding an umbrella policy
- Use one or more business entities:
 - Separate your highest liability assets from your highest value assets
 - Separate your business assets from your personal assets

Liability Creditors

- Follow Business Formalities
 - Separate bank accounts
 - Lease agreements
 - Annual Meetings
- Buy-Sell Agreements/Provisions
 - Permissible / non-permissible transferees
 - Purchase price determination
 - Discounts
 - Cash deal or contract

Liability Creditors

- Include your accountant in the conversation
 - To determine tax implications
- Include your financial advisor in the conversation
 - To determine whether life insurance may be necessary
- Include your insurance agent in the conversation
 - To determine if you have adequate coverage



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