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Unlocking New Opportunities:

How the One Big Beautiful Bill Act Supercharged QSBS Benefits for Investors

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SUMMARY

Qualified Small Business Stock (QSBS) has long given early investors in many companies significant tax benefits. The One Big Beautiful Bill Act (OBBBA), signed into law on July 4, 2025, by President Trump, significantly enhanced those benefits for investors.

Key Benefits of QSBS

Capital Gains Exclusion

One of the most attractive features of QSBS is the ability to exclude up to 100% of capital gains—subject to the limits described below--from federal (and potentially state) taxes upon the sale of QSBS. The gain exclusion is on a per taxpayer, per issuer basis.

Capital Gains Deferral

After holding QSBS for at least six months, you can roll the proceeds of a sale into a new qualified small business and defer tax on any gain until you sell your stock in the new company. You can also "tack" the holding period of your original investment onto the new investment so you don't lose the time you were invested in the original qualified small business.

[1] Most states conform with the federal exemption for QSBS; however, as of March 2026, Alabama, California, Mississippi, Pennsylvania & Puerto Rico do not provide any QSBS benefit at the state level. Hawaii partially conforms. Given the evolving landscape for many states with respect to QSBS, it is important to check with your legal or tax advisor to confirm what QSBS benefits may be available to you for state tax purposes.

What's new at a glance

(for QSBS issued after July 4, 2025)

	QSBS acquired on or before July 4, 2025	QSBS acquired after July 4, 2025
Holding period	**Five year holding period required to exclude gain; exclusion was tiered depending on acquisition date:** 50% if QSBS acquired before February 18, 2009 (with alternative minimum taxable (AMT) addback[1]) 75% if QSBS acquired between February 18, 2009 and September 27, 2010 (with AMT addback) 100% if QSBS acquired after September 27, 2010 (no AMT addback)	**Tiered exclusion (with no AMT addback[2]):** 50% if QSBS held at least 3 years 75% if QSBS held at least 4 years 100% if QSBS held at least 5 years
Maximum capital gain deferral	$10 million per taxpayer per issuer, or 10x the taxpayer's adjusted basis in the stock	$15 million per taxpayer per issuer, or 10x the taxpayer's adjusted basis in the stock
Maximum gross assets of company on stock issuance to qualify as QSBS	$50 million	$75 million (indexed for inflation)

Background on QSBS

QSBS is a powerful tax incentive designed to encourage investment in small businesses. It offers significant tax benefits to investors who hold shares in qualifying companies, making it an attractive option for those looking to support innovation and growth in the entrepreneurial sector.

QSBS refers to stock that meets specific criteria set by Section 1202 of the Internal Revenue Code. To qualify as QSBS, among other requirements (discussed below), the stock must be

- Acquired directly from a domestic C Corporation at its original issue
- At least 80% of the corporation's assets (by value) must be used in the active conduct of one or more qualified trade or businesses during substantially all of the holding period
- The corporation cannot have more than $75 million of "gross assets" when the stock is issued ($50MM for pre-OBBBA stock issuance)

Certain businesses are **excluded** from qualifying. These are commonly professional service businesses such as health/law/accounting/consulting/financial services, banking/insurance, brokerage, leasing/farming/gaming/mining/oil & gas/hospitality.

[1] AMT refers to the alternative minimum tax — a parallel tax system designed to ensure that taxpayers who benefit from certain deductions, exclusions, or preferences still pay a minimum amount of tax. An "AMT addback" means the excluded portion of the QSBS gain must be added back into the AMT calculation, which can reduce or offset the benefit of the exclusion.

[2] For QSBS subject to a partial exclusion (50% or 75%), the non-excluded portion of the gain is taxed at a maximum rate of 28% — higher than the standard long-term capital gains rate. Combined with the AMT addback, this means QSBS acquired before September 27, 2010 is often considerably less beneficial than the headline exclusion percentages suggest.

Pre-OBBBA baseline
(for context)

The applicable QSBS rules depend on when the stock was acquired. For QSBS acquired on or before July 4, 2025, the pre-OBBBA rules continue to apply: taxpayers who hold such QSBS for at least 5 years may potentially exclude 50%, 75%, or 100% of eligible gain from federal income tax — depending on the acquisition date — subject to limitations. Under those rules, the exclusion is generally limited to the greater of:

- $10MM of gain (per taxpayer, per issuer), or
- 10× the taxpayer's adjusted basis in the QSBS sold that year.

For pre-September 27, 2010 QSBS, 7% of the excluded gain (not the full gain) is added back to alternative minimum taxable (AMT) income and could be taxed at up to a 28% AMT rate.

Under both pre- and post-OBBBA Section 1202 rules, the non-excluded portion of QSBS gain is taxed at a maximum 28% federal rate, plus the 3.8% net investment income tax (NIIT), rather than the standard 20% long-term capital gains rate.

Key Changes Introduced by the OBBBA

- **Tiered Gain Exclusion:** The OBBBA introduces a tiered structure for capital gains exclusion based on the duration of stock holding for QSBS issued after July 4, 2025:
  - **3 Years:** Investors can exclude 50% of capital gains. The non-excluded portion as mentioned above is taxed at a capital gain rate of 28% + 3.8% NIIT—an effective rate of 15.9%.
  - **4 Years:** The exclusion increases to 75%. The non-excluded portion is taxed at a 28% capital gain rate + 3.8% NIIT—an effective rate of 7.95%.
  - **5 Years:** A full 100% exclusion is available.
- **Increased Cap per Taxpayer per Issuer:** The cap on gains eligible for exclusion per issuer or taxpayer has been raised from $10 million to **$15 million**. This cap will be indexed for inflation starting in 2027, ensuring that the benefits remain relevant and substantial over time. Note that an exclusion of 10x your adjusted basis is still available, so if 10x your adjusted basis is higher than $15 million you can still take advantage of the higher limit.[3]
- **Expanded Asset Eligibility:** In order to qualify as QSBS, the corporation cannot have gross assets over a certain amount at the time the stock is issued to you. Prior to July 4, 2025, that threshold was $50 million and was not subject to inflation adjustments; the OBBBA increased it to $75 million, allowing more businesses to qualify for QSBS benefits. This limit will also be indexed for inflation after 2026, accommodating the growth and expansion of small businesses.[4]

[3] Note how basis works when QSBS is issued through a tax-free reorganization (e.g., converting an LLC to a C corporation). You technically receive basis, but because no tax was paid at conversion, that built-in gain is only deferred — not eliminated. When you sell the QSBS, the portion of gain attributable to that deferred amount remains taxable. So even with the QSBS exclusion, you may still owe tax on the initial portion of the sale.

[4] Note that Section 1202(d)(2) defines "aggregate gross assets" as "the amount of cash and aggregate adjusted bases of other property held by the corporation." For purposes of Section 1202, property contributed to the corporation in exchange for stock has a basis at its fair market value upon contribution. However, for assets purchased by the corporation, Section 1202 looks at the adjusted tax basis, which may be lower than its value due to depreciation. So long as the aggregate gross assets remain under $75 million, the stock the company issues may qualify for QSBS.

Planning Considerations

There are strategies you might be able to use to either qualify for QSBS or, if stock you own is already QSBS, to enhance its after-tax value for you and your family. You should explore the items below with your tax and legal advisors to determine whether they are right for you given your individual circumstances.

Evaluating conversion to a C Corporation

If you currently operate as an LLC or S Corporation, consider whether conversion to a C Corporation could align new share issuances with QSBS "original issuance", gross assets test and active business requirements. Importantly, the holding period begins with issuance of C Corporation stock; your holding period of S Corporation stock or an LLC membership interest prior to conversion is not counted as part of your holding period.

Considerations: Potential tax impacts of conversion (e.g., built-in gains, cancellation-of-debt income), timing with an investment round, and documenting that proceeds are deployed in qualified active business activities. In addition, you may want to obtain an appraisal of the LLC or S Corporation upon conversion in order to qualify for the 10X basis exclusion amount. Discuss with your tax advisor the impact of ongoing taxation as a C Corporation (potentially two levels of tax) vs. S Corporation or LLC (taxed only at individual shareholder or member level), including any potential differences in state income taxes applicable to different types of entities. Note that if an S Corporation converts to a C Corporation, only stock issued after the conversion may qualify due to the original issue requirement. Additionally, be mindful of the Qualified Business Income (QBI) deduction available to pass through entities, which would not be available to C Corporations.

"Stacking"

If you're comfortable giving away the economic benefit of some of your stock (for example, transferring stock for the benefit of your children), you can consider creating one or more non-grantor trusts. Each trust could be treated as a separate taxpayer and could therefore qualify for its own QSBS exclusion.

Considerations: The Treasury Department announced in May of 2026 that stacking was under scrutiny as potentially abusive in certain circumstances. It is important that there be independent economic substance for each trust, independent beneficiaries and decision-making, documentation of purposes, and that you have an awareness of anti-abuse and aggregation rules that could collapse the structure. Confirm QSBS eligibility throughout the holding period and evaluate timing relative to the 3-, 4-, or 5-year tiers.

Cap table and operational hygiene

Make sure you have processes in place to support and substantiate QSBS eligibility, and that you are prepared for an audit.

Considerations: The QSBS rules have to be followed at all times—not just when issuing stock, but when using proceeds and potentially when engaging in certain redemptions or non-qualified investments. Inadvertently violating the QSBS rules could eliminate qualification even well after the stock is issued. It's important that stock be issued at fair value; that issuance dates are recorded, and that proceeds are used for qualified activities, as well as to fall under the gross assets threshold at issuance; to maintain at least 80% qualified active business activity; and to avoid transactions (e.g., certain redemptions or non-qualified investments) that could create QSBS risk.

Starting holding periods

The holding period for QSBS eligibility begins when stock is issued. Stock options or unvested stock grants will not qualify until options are exercised or an IRC 83b election is made for restricted stock/options. Note: All the requirements for a qualified small business must be met at the time of exercise, regardless of whether they were met at the time of the grant. Consider whether modifying an equity award program to allow for pre-vesting exercise would make sense for both the company and its employee shareholders.

Exit timing under OBBBA's tiers

Consider how different exit timelines (3, 4, 5 years, or the 60-day rollover) could affect the share of gain excluded and net proceeds.

Considerations: Modeling partial versus full exclusions, NIIT exposure on non-excluded amounts, any AMT interactions, and structuring secondary liquidity in ways that are consistent with QSBS eligibility. For rollover, consider whether you can source sufficient new QSBS deals within the required time frame (generally new QSBS must be purchased within 60 days of the sale closing).

Centralizing IP and revenue in the issuing C Corporation

Make sure that your organizational alignment supports the QSBS active business test.

Considerations: Ownership and location of IP (intellectual property) and core revenue streams within the issuer, and maintenance of clear records that trace stock issuances, cash inflows, and use of funds can be critical.

Coordination and documentation

Consider an integrated plan that links corporate actions, trust structures, equity grants, and exit modeling to current QSBS rules.

Considerations: Early engagement with tax and legal advisors can make it much easier for you to fulfill all the requirements without undue external pressures (like a funding round); document your assumptions and decisions; and revisit the plan if rules or business facts change.

Conclusion

The OBBBA meaningfully expanded the potential value—and the planning complexity—of QSBS for investors, founders, and executives. With higher thresholds and a tiered exclusion framework for post-July 4, 2025 issuances, QSBS may provide a powerful lever to improve after-tax outcomes when eligibility is established early and maintained consistently through the holding period and exit. At the same time, QSBS benefits are highly fact-specific and can be impacted by details that are easy to miss—such as entity type, original issuance requirements, gross-asset calculations at issuance, ongoing compliance with the active business test, cap table actions, redemptions, and the timing and structure of liquidity events.

For these reasons, it is critical that you speak with your tax and legal advisors before making decisions related to QSBS, including entity formation or conversion, financings, equity grants and exercises, trust structuring, and exit planning. Early, coordinated planning—and disciplined documentation—can be the difference between preserving QSBS eligibility and losing it when it matters most.

For more information and additional considerations relating to these strategies, contact your J.P. Morgan representative.

Appendix

The following Comparison Charts and Scenarios may be helpful in better understanding the Pre-and Post-OBBBA QSBS rules.

Comparison Chart: Pre-OBBBA vs. Post-OBBBA QSBS Rules[1]

FOR QSBS ISSUED ON OR BEFORE JULY 4, 2025 (CHART ASSUMES NO TAXPAYER BASIS):

Stock Issuance	Gain Exclusion	AMT Add-Back	Tax Rate on Non-Excluded Gains	Holding Period	Taxpayer Exclusion Limit
August 10, 1993 - February 16, 2009	50%	7%	28%	5 years	$10MM or 10X Basis
February 17, 2009 - September 27, 2010	75%	7%	28%	5 years	$10MM or 10X Basis
September 27, 2010 - July 4, 2025	100%	None	N/A	5 years	$10MM or 10X Basis

QSBS ISSUED AFTER JULY 4, 2025

Stock Issuance	Gain Exclusion	AMT Add-Back	Tax Rate on Non-Excluded Gains	Holding Period	Taxpayer Exclusion Limit
Stock held for 3 years	50%	0%	28%	3 years	$15MM or 10X Basis
Stock held for 4 years	75%	0%	28%	4 years	$15MM or 10X Basis
Stock held for 5 years	100%	None	N/A	5 years	$15MM or 10X Basis

[1] Please see the Transactional Planning – QSBS deck from Wealth Planning & Advice for additional details: Pre-And Post-Transactional Planning: QSBS

[2] Under IRC 1202(a)(1), the portion of gain from QSBS that is not excluded from gross income is taxed at 28%, not the standard long-term capital gains rate (currently 20%).

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Scenario #1

PRE OBBBA STOCK ISSUANCE, SALE AFTER 5 YEARS

Assume John, a resident of Nevada, acquires QSBS eligible shares in 2021. Assume also that his basis in the stock is $1MM, and he holds the shares for 5 years before selling the shares for $20MM. Note: The following scenarios do not take into account any potential state tax liability for states that do not conform to the Federal QSBS rules.

- **Stock Issuance Date:** January 2, 2021
- **Stock Sale Date:** January 3, 2026
- **Holding Period:** 5 years
- **Basis:** $1MM
- **Sale Price:** $20MM
- **Gain Exclusion:** 100%
- **Taxpayer Exclusion Limit:** $10MM

ANALYSIS

1. **Holding Period:** John held the QSBS for 5 years, which qualifies for 100% gain exclusion.
2. **Sale Price:** John sells his shares for $20MM
3. **Gain Exclusion:** Since the sale price is above the $10MM taxpayer exclusion limit, John can exclude the first $10MM from capital gains tax.

   The remaining $9MM gain would be taxed at LTCG rates of 20% (federal) and subject to the Net Investment Income Tax (NIIT) of 3.8%.
4. **Total Taxes:** $2,142,000
5. **Effective Tax Rate:** 11.27%

Scenario #2

PRE OBBBA STOCK ISSUANCE, SALE AFTER 4 YEARS

- **Stock Issuance Date:** January 2, 2023
- **Stock Sale Date:** January 3, 2026
- **Holding Period:** 4 years
- **Basis:** $1MM
- **Sale Price:** $20MM
- **Gain Exclusion:** None (under pre-OBBBA rules for less than 5-year holding period)

ANALYSIS

1. **Holding Period:** John held the QSBS for approximately 3 years, which is less than the required 5-year holding period for any gain exclusion under pre-OBBBA rules.
2. **Sale Price:** John sells his shares for $20MM
3. **Gain Exclusion:** Since John does not meet the 5-year holding period requirement, he is not eligible for any gain exclusion under the pre-OBBBA rules and the entire gain amount is subject to capital gains tax at a rate of 20% + 38% NIIT. Note that he could roll sale proceeds into a new qualified small business within 60 days of sale, in which case he could defer the gain on that amount.
4. **Total Taxes:** $4,522,000
5. **Effective Tax Rate:** 23.8%

Scenario #3

POST OBBBA STOCK ISSUANCE, SALE AFTER 4 YEARS

- **Stock Issuance Date:** July 5, 2025
- **Stock Sale Date:** July 6, 2029
- **Holding Period:** 4 years
- **Basis:** $1MM
- **Sale Price:** $20MM
- **Gain Exclusion:** 75% (for 4-year holding period)
- **Taxpayer Exclusion Limit:** $15MM

ANALYSIS

1. **Holding Period:** John held the QSBS for 4 years, qualifying for a 75% gain exclusion.
2. **Gain Exclusion:** John can exclude 75% of his gains, up to the $15MM exclusion limit. Therefore, $11.25MM is excluded from taxation.
3. **Tax on Non-Excluded Gains:** The difference between $11.25MM and $15MM, $3.75MM, is subject to capital gains tax at a rate of 28% + 3.8% NIIT (Net Investment Income Tax) = $1,192,500
4. **Remaining Gains:** The remaining $4MM of gains is taxed at a Federal rate of 20% + 3.8% NIIT = $952,000
5. **Total Taxes:** $2,144,500
6. **Effective Tax Rate:** 11.29%

Scenario #4

POST OBBBA STOCK ISSUANCE, SALE AFTER 5 YEARS

- **Stock Issuance Date:** July 5, 2025
- **Stock Sale Date:** July 6, 2030
- **Holding Period:** 5 years
- **Basis:** $1MM
- **Sale Price:** $20MM
- **Gain Exclusion:** 100% (for 5-year holding period)
- **Taxpayer Exclusion Limit:** $15MM

ANALYSIS

1. **Holding Period:** John held the QSBS for 5 years, qualifying for a 100% gain exclusion.
2. **Gain Exclusion:** Taxpayer can exclude $15MM from taxation
3. **Remaining Gains:** $4MM ($20MM sales price-$1MM basis-$15MM excluded from gains): Taxed at 20% federal capital gains + 3.8% Net Investment Income Tax (NIIT = 23.8%. $4MM x 23.8= $952,000 tax liability
4. **Total Taxes:** $952,000
5. **Effective Tax Rate:** 5.01%

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