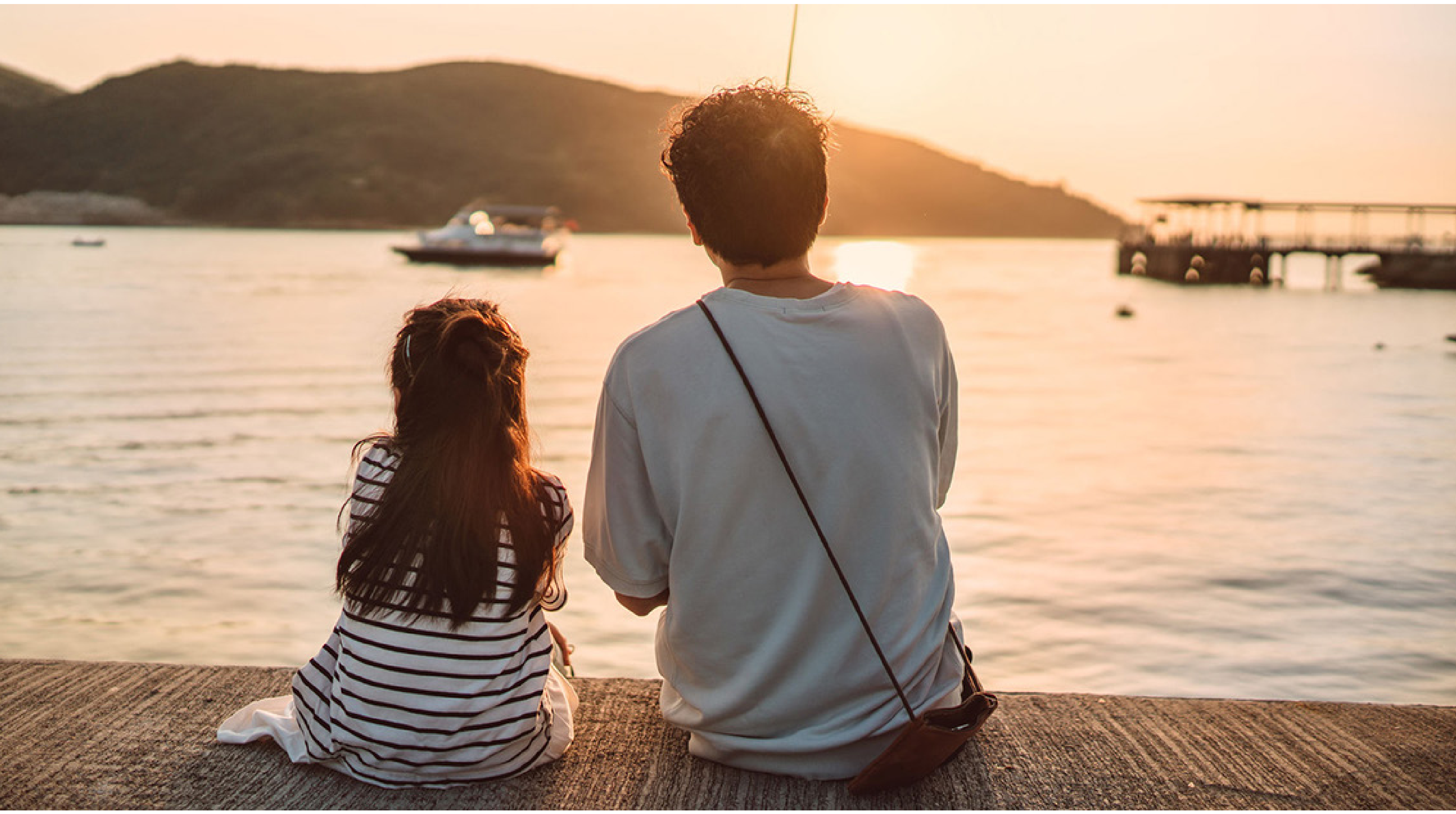
Top Ten Planning Topics for 2024



By
Jennifer Lan
Senior Wealth Strategist
Advanced Planning Group

Premini Scandurra
Wealth Strategist
Advanced Planning Group

Advanced Planning Group

UBS

As new laws become effective and old laws phase out, clients should be mindful how these changes may potentially impact their respective tax situations. Below are some ideas to keep top of mind throughout the upcoming year.

1. Corporate Transparency Act

The Corporate Transparency Act (CTA) created new reporting requirements that will affect many family businesses and other entities that families use in their wealth structures.[1] Under the act, reporting companies must provide information about their beneficial owners to the Financial Crimes Enforcement Network (FinCEN).[2] On September 30, 2022, FinCEN issued regulations implementing the reporting requirements.[3] These reporting requirements, which apply to many family-controlled and other types of companies, aim to diminish the ability of bad actors to use entities for illicit purposes, including corruption, money laundering, terrorist financing, and tax evasion.[4]

A reporting company generally is any corporation, limited liability company, or other entity formed or registered in the United States, unless it qualifies for an exemption. A trust is not a reporting company. A beneficial owner generally is any individual who (directly or indirectly) exercises substantial control over the reporting company or (directly or indirectly) owns or controls 25% or more of the reporting company's ownership interests.

According to the regulations:

– For entities formed or registered before January 1, 2024, all reportable information required by the CTA must be submitted to FinCEN not later than January 1, 2025.
– For entities formed or registered on or after January 1, 2024, and before January 1, 2025, all reportable information required by the CTA must be submitted to FinCEN within 90 calendar days of formation.
– For entities formed or registered on or after January 1, 2025, all reportable information required by the CTA must be submitted to FinCEN within 30 calendar days of formation.
– Thereafter, updates to reportable information are required to be submitted to FinCEN within 30 calendar days (e.g., changes to the management or ownership structure of a reporting company).

For more information on the reporting requirements, see Todd D. Mayo, *Beneficial Ownership Reporting Requirement under the Corporate Transparency Act* (a publication of the UBS Advanced Planning Group).[5]

2. Sunset of lifetime exemption

In 2017, the Tax Cuts and Jobs Act (TCJA) effectively doubled the estate and gift tax lifetime exemption from $5,490,000 to $11,180,000, adjusted each subsequent year for inflation. This increased exemption amount began with decedents dying and gifts made in 2018. Because of these

[1] Pub. Law 116-283 (2020), §§ 6401 to 6403.
[2] See, generally, 31 USC § 5336(b)(1).
[3] *Beneficial Ownership Information Reporting Requirements*, 87 Fed. Reg. 59498 (September 30, 2022). In 2021, FinCEN promulgated proposed regulations. See *Beneficial Ownership Information Reporting Requirements*, 86 Fed. Reg. 69920 (December 8, 2021). FinCEN had previously issued an advance notice of proposed rulemaking, soliciting comments on the regulations implementing the reporting requirements. See *Beneficial Ownership Information Reporting Requirements*, 86 Fed. Reg. 17557 (April 5, 2021).
[4] 87 Fed. Reg. 59498, 59500-59507.
[5] New York has also enacted a similar law with respect to limited liability companies formed or registered in New York. For more information on this law, see Todd D. Mayo, *New York Enacts LLC Transparency Act, Requiring Disclosure of Limited Liability Companies' Beneficial Owners* (a publication of the UBS Advanced Planning Group).

changes, the 2024 exemption amount is $13.61 million per person ($27.22 million for married couples).[6]

These changes will not last, however. At the end of 2025, this tax provision will expire (unless Congress takes action to extend it), cutting the exemption roughly in half.[7] This means individual taxpayers with estates that are above the exemption amount should consider making gifts that utilize their lifetime exemption before the end of 2025. By making gifts that use the larger lifetime exemption, the individual not only removes more assets from their estate, but also removes any future appreciation with respect to the money or property that the individual gives away.

A taxpayer who dies with a taxable estate greater than the exemption amount can be subject to a federal tax rate of up to 40%. Additionally, some states have estate tax as well which can further decrease the net estate assets of a decedent. Therefore, it is important to start planning now to be well prepared for when the lifetime exemption decreases.

For more information on the expiring exemption amount, see Jacqueline Denton, *The Looming Cliff: Temporary Increase in the Lifetime Exemption Scheduled to Sunset at the End of 2025* (a publication of the UBS Advanced Planning Group).

3. Life insurance

In light of the looming exemption decrease, there are various estate planning techniques that should be considered. One of which is life insurance and the use of an irrevocable life insurance trust (ILIT). While an individual may not have a taxable estate today, that could change in 2026. Planning now for potential liquidity needs in the future, whether for wealth replacement or assistance paying estate tax, can be beneficial.

An individual can use an existing life insurance policy or buy a new one to accomplish these goals. That being said, an ILIT should be considered as a part of the structure. If life insurance is owned by the insured, the death benefit will be includable in the insured's estate for estate tax purposes. If the insured has a taxable estate for federal estate tax purposes, it may be preferable to structure the ownership of the life insurance so that the death benefit is not part of the insured's estate, i.e., in an ILIT. If structured correctly, an ILIT can hold and distribute insurance proceeds estate and income tax free to the intended beneficiaries.

The ILIT is generally structured to allow the ILIT to lend assets (i.e., insurance proceeds) to the insured's estate to pay estate taxes, which are generally due nine months after death. Alternatively, the ILIT could buy illiquid assets from the insured's estate to provide the necessary liquidity. If the purpose of the insurance is to provide wealth replacement for a spouse, children, or other family members, the proceeds may be retained in the trust for their benefit, and other assets can be used to pay the estate tax.

For more information on ILITs and life insurance, see Jennifer Lan, Premini Scandurra, and Hunter Peek, *Life Insurance* (a publication of the UBS Advanced Planning Group).

[6] IRC §§ 2010(c) and 2502(a). See Rev. Proc. 2023-34. This assumes the individual is a US person for gift and estate tax purposes.
[7] IRC § 2010(c)(3)(C).

4. Review core estate plan

An individual should periodically review their estate plan to ensure that their plans reflect their current wishes and objectives. This includes both tax and non-tax objectives. This review may be especially important if there has been a significant life event—such as a marriage, divorce, birth, or death—or a significant change in financial circumstances.

An individual's core estate plan generally includes: a revocable trust, a Will, power of attorney for financial and legal matters, power of attorney for healthcare, living will, and nomination of guardians. For many individuals, the revocable trust is the cornerstone of their estate plan, facilitating the management of assets during life if they become incapacitated, and directing the transfer of assets after their death.

When funded during life, a revocable trust can also provide a means of transferring wealth while avoiding probate. Probate is a court-supervised process for transferring assets. A revocable trust typically is a more advantageous method of transferring wealth than probate. A revocable trust generally provides more privacy, potentially avoids certain legal and administrative costs, and potentially facilitates a more expeditious transfer of wealth after an individual's death.

Ensuring that all these documents are properly in order, especially when life and circumstances change, is critically important.

For more information about core estate planning, see Todd D. Mayo, *2024 Planning Guide* (a publication of the UBS Advanced Planning Group).

5. Asset titling

Asset titling, meaning simply how an individual's assets are legally owned, is a critical but often overlooked component of financial and estate planning. Even the most sophisticated and well thought out plan can be put in jeopardy if asset titling is not examined both at the time the estate plan is implemented and periodically thereafter, as changes to the balance sheet or to an estate plan occur. Asset titling has far reaching implications, impacting not only estate planning but also creditor protection, income tax planning, and incapacity planning.

Deciding how to title assets can be a complex proposition and every individual's strategy depends on their own unique circumstances, goals, and state of residency. An individual should be certain of exactly how they hold their interest in the asset in order to assess what and how much they may transfer, and how best to do so.

For more information about asset titling, see Catherine McDermott, *Asset Titling* (a publication of the UBS Advanced Planning Group), and Todd D. Mayo, *2024 Planning Guide* (a publication of the UBS Advanced Planning Group).

6. Annual exclusion gifts

Congress doesn't limit the ability to make gifts, but it does limit the amount that can be gifted without incurring gift taxes. The Internal Revenue Service (IRS) enforces such limits. Generally, the two main gifting tools are the annual exclusion and the lifetime exemption. In 2024, the annual exclusion allows an individual to give up to $18,000 to any number of individuals ($36,000 per married couple).

Any gifts in excess of this amount count against an individual's $13.61 million lifetime gift tax exemption in 2024 ($27.22 million for married couples).

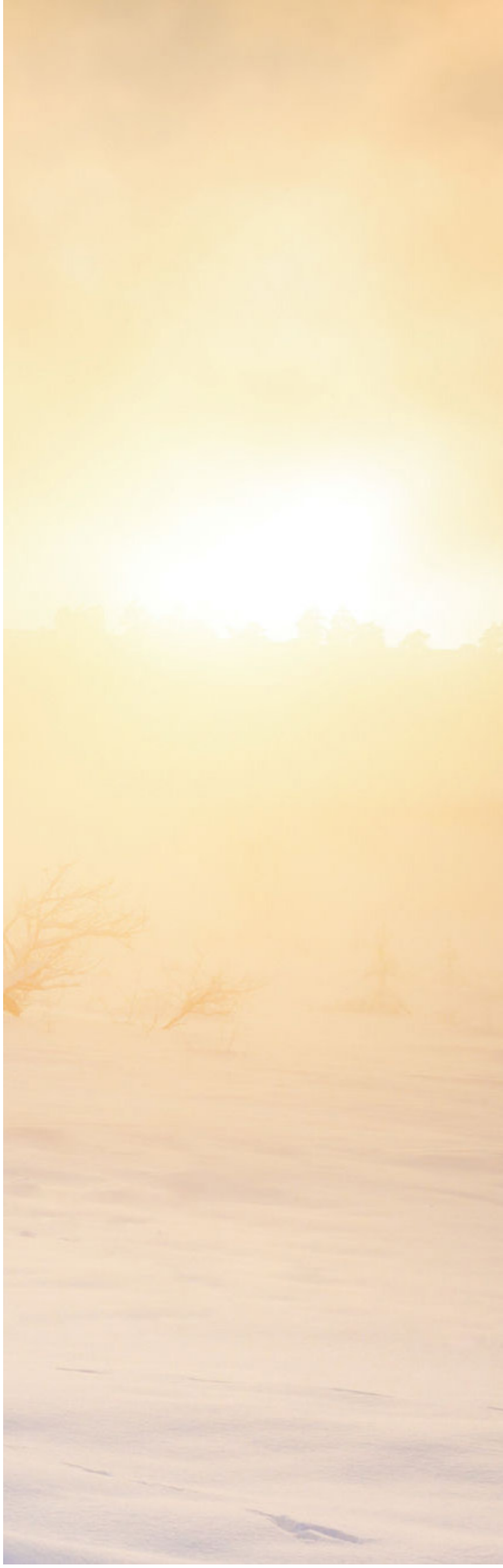
To illustrate, consider an individual who has two grandchildren and their legacy planning involves funding their grandchildren's education. They intend to accomplish this goal by making annual exclusion gifts to 529 plans and Uniform Transfer to Minors Act (UTMA) accounts for each grandchild. In 2024, if the individual has already made a $10,000 gift to each grandchild's 529 plan, then they would only have $8,000 left to contribute to each grandchild's UTMA account without using their available lifetime exemption.

The power of annual gifts invested over time can be significant. A regular annual exclusion gifting strategy combined with compounding investment growth can help individuals transfer substantial amounts of wealth out of their estates over time without using any of their lifetime exemption.

7. Sunset of certain income tax rates

It's not only the estate and gift tax exemptions that will sunset at the end of 2025 as a result of the TCJA. Several income tax provisions are also scheduled to sunset at the end of 2025. Although Congress may act to extend some or all of them, it is important to know which provisions are expiring so taxpayers can be prepared to maximize their tax savings in case the provisions sunset as currently scheduled. The list below is not exhaustive.

- **Individual tax rates:** The TCJA lowered income tax rates to 10%, 12%, 22%, 24%, 32%, 35%, and 37%. The top rate decreased to 37% from 39.6%. Starting January 1, 2026, the top tax rate will revert to 39.6%.[8]
- **Standard deduction:** The TCJA also nearly doubled the standard deduction for all filing statuses.[9] As a result, many taxpayers have not itemized deductions. Starting January 1, 2026, the standard deduction will be about half of what it is currently, adjusted for inflation.
- **Itemized deductions:** The following items were temporarily modified or suspended by the TCJA:
  - *SALT:* The state and local tax (SALT) deduction was capped at $10,000, which had a significant impact on taxpayers in high-tax states. Starting January 1, 2026, this limitation will expire, allowing greater benefit from deducting taxes paid during the calendar year, including real estate taxes, state or local income taxes, and personal property taxes.[10]
  - *Mortgage interest deduction:* The TCJA generally suspended the home equity loan interest deduction. It limited the home mortgage interest deduction to the first $750,000 of debt (if married filing jointly) for any loan originating on or after December 16, 2017. Starting January 1, 2026, the mortgage interest deduction will revert to pre-TCJA levels, allowing interest to be deducted on the first $1 million in home mortgage debt and $100,000 in a home equity loan.[11]



[8] *https://www.thetaxadviser.com/issues/2023/dec/tax-planning-for-the-tcjas-sunset.html*.

[9] IRC § 63. The TCJA increased the standard deduction to $12,000 for single filers and $24,000 for married filing jointly. Due to the inflation adjustment, in 2024, the standard deduction is $14,600 for single filers and $29,200 for married filing jointly.

[10] For more information on the SALT deduction and potential workarounds, see Todd D. Mayo, *SALT Cap Workarounds* (a publication of the UBS Advanced Planning Group).

[11] For more information on interest deductions, see Todd D. Mayo, *Tax-Aware Borrowing* (a publication of the UBS Advanced Planning Group).

– *Miscellaneous itemized deductions:* The TCJA temporarily eliminated most miscellaneous itemized deductions, such as investment/advisory fees, legal fees, and unreimbursed employee expenses. These deductions will once again be allowed, starting January 1, 2026, under the previous rules, to the extent they exceed 2% of the taxpayer's adjusted gross income.[12]

For more information on these income tax topics, see Todd D. Mayo, *2024 Planning Guide* (a publication of the UBS Advanced Planning Group).

8. Netting gains and losses

In light of the upcoming expiration of TCJA tax cuts, individuals should consider whether to accelerate or defer income, deductions, and credits based on their particular tax situation, if feasible. There are limitations on the extent to which an individual can accelerate and defer these items and, of course, the individual should consider the potential impact on state and local taxes, as well as federal taxes. Understanding how these gains and losses work is an important factor in this decision.

An individual must net their recognized gains and losses. A short-term capital gain or loss arises upon the sale or exchange of a capital asset held for one year or less.[13] A long-term capital gain or loss arises upon the sale or exchange of a capital asset held for more than one year.[14] If their short-term capital gains exceed their short-term capital losses, the individual will have a net short-term capital gain.[15] Otherwise, the individual will have a net short-term capital loss.[16] Similarly, the individual must net their long-term capital gains and long-term capital losses. If their long-term capital gains exceed their long-term capital losses, the individual will have a net long-term capital gain.[17] Otherwise, the individual will have a net long-term capital loss.[18]

If an individual has a net long-term capital gain and that gain exceeds their net short-term capital loss, the excess is their net capital gain.[19] As we discuss below, net capital gain is taxed at a more preferential rate than ordinary income. In contrast, if the individual has a net short-term capital gain and that gain exceeds their net long-term capital loss, the excess is taxed as ordinary income.[20] In 2024, the top marginal rate for net capital gain generally is 20% (or 23.8% if the net investment income tax also applies), and the top marginal rate for ordinary income is 37%.[21]

If the individual's capital losses exceed their capital gains, the individual can deduct up to $3,000 (or $1,500 if the individual is a married individual filing separately) of the excess against ordinary income.[22] The individual can carry the nondeductible losses forward to offset net capital gains and ordinary income in future years indefinitely.[23] In each year into which they carry those losses forward, the individual can only deduct up to $3,000 (or $1,500

[12] *https://www.thetaxadviser.com/issues/2023/dec/tax-planning-for-the-tcjas-sunset.html*.
[13] IRC §§ 1222(1) and (2).
[14] IRC §§ 1222(3) and (4).
[15] IRC § 1222(5).
[16] IRC § 1222(6).
[17] IRC § 1222(7).
[18] IRC § 1222(8).
[19] IRC § 1222(11).
[20] See IRC § 1(h) and (j)(2).
[21] See IRC §§ 1(h), (j)(2), and 1411(a).
[22] IRC §§ 165(f) and 1211(b).
[23] Id.

if the individual is a married individual filing separately) of those losses against ordinary income.[24] The losses that an individual carries forward retain their character as short-term or long-term capital losses.[25]

For more information on netting gains and losses, see Todd D. Mayo, *2024 Planning Guide* (a publication of the UBS Advanced Planning Group).

9. Roth conversions

In some situations, an individual might consider converting a traditional IRA to a Roth IRA. A Roth IRA potentially offers significant benefits, most notably tax-free growth of assets, tax-free distributions, and no RMDs during the individual's life.[26] When converting from a traditional IRA to a Roth IRA, the converted amount is taxable to the IRA owner as ordinary income in the year in which the conversion occurs.[27]

When deciding whether to make a conversion, an individual should consider potential changes to the income tax rates that may occur over their life. A conversion may not be optimal if the individual expects to pay income taxes at a lower rate after they retire when they will receive distributions (e.g., after retirement). The individual also should consider the liquidity needs that a conversion may create. A conversion may be less advantageous if the individual must draw from the converted amount—instead of other liquid assets—to pay the taxes caused by the conversion.

As discussed above, individuals should keep in mind the upcoming expiration of the TCJA tax cuts and how that might affect their decision regarding a conversion.

For more information on Roth conversions, see Carrie J. Larson, *Roth Conversions* (a publication of the UBS Advanced Planning Group) and Todd D. Mayo, *2024 Planning Guide* (a publication of the UBS Advanced Planning Group).

10. Charitable deductions

After the enactment of the TCJA, many individuals do not have sufficient itemized deductions to exceed the standard deduction.[28] An individual who typically makes annual charitable gifts but doesn't have itemized deductions in excess of the standard deduction might consider bunching multiple years of charitable gifts into a single year. Bunching multiple years of charitable gifts may cause the individual's itemized deductions to exceed the standard deduction and therefore maximize their income tax charitable deduction.

For more information on charitable deductions, see David Leibell, *Charitable Giving: Rules of the Road* (a publication of the UBS Advanced Planning Group, UBS Family Office Solutions, and UBS Family Advisory and Philanthropy Services) and Todd D. Mayo, *2024 Planning Guide* (a publication of the UBS Advanced Planning Group).

[24] Id.
[25] IRC § 1212(b)(1).
[26] IRC § 408A.
[27] IRC § 408A(d)(3).
[28] See IRC § 63(c).

About the Advanced Planning Group

The Advanced Planning Group consists of former practicing estate planning and tax attorneys with extensive private practice experience and diverse areas of specialization, including estate planning strategies, income and transfer tax planning, family office structuring, business succession planning, charitable planning and family governance.

The Advanced Planning Group provides comprehensive planning and sophisticated advice and education to ultra high net worth (UHNW) clients of the firm. The Advanced Planning Group also serves as a think tank for the firm, providing thought leadership and creating a robust intellectual capital library on estate planning, tax and related topics of interest to UHNW families.

Disclosures

Purpose of this document.
This report is provided for informational and educational purposes only. It should be used solely for the purposes of discussion with your UBS Financial Advisor and your independent consideration. UBS does not intend this to be fiduciary or best interest investment advice or a recommendation that you take a particular course of action. The information is current as of the date indicated and is subject to change without notice.

Personalized recommendations or advice.
If you would like more details about any of the information provided, or personalized recommendations or advice, please contact your UBS Financial Advisor.

Conflicts of interest.
UBS Financial Services Inc. is in the business of establishing and maintaining investment accounts (including retirement accounts) and we will receive compensation from you in connection with investments that you make, as well as additional compensation from third parties whose investments we distribute. This presents a conflict of interest when we recommend that you move your assets to UBS from another financial institution or employer retirement plan, and also when we make investment recommendations for assets you hold at, or purchase through, UBS. For more information on how we are compensated by clients and third parties, conflicts of interest and investments available at UBS please refer to the "Your relationship with UBS" booklet provided at **ubs.com/relationshipwithubs**, or ask your UBS Financial Advisor for a copy.

No tax or legal advice.
UBS Financial Services Inc., its affiliates and its employees do not provide tax or legal advice. You should consult with your personal tax and/or legal advisors regarding your particular situation.

Important additional information applicable to retirement plan assets (including assets eligible for potential rollover, distribution or conversion).
This information is provided for educational and discussion purposes only and are not intended to be fiduciary or best interest investment advice or a recommendation that you take a particular course of action (including to roll out, distribute or transfer retirement plan assets to UBS). UBS does not intend (or agree) to act in a fiduciary capacity under ERISA or the Code when providing this educational information. Moreover, a UBS recommendation as to the advisability of rolling assets out of a retirement plan is only valid when made in a written UBS Rollover Recommendation Letter to you provided by your UBS Financial Advisor after a review of detailed information that you provide about your plan and that includes the reasons the rollover is in your best interest. UBS and your UBS Financial Advisor do not provide rollover recommendations verbally.

With respect to plan assets eligible to be rolled over or distributed, you should review the IRA Rollover Guide UBS provides at **ubs.com/irainformation** which outlines the many factors you should consider (including the management of fees and costs of your retirement plan investments) before making a decision to roll out of a retirement plan. Your UBS Financial Advisor will provide a copy upon request.

Important information about brokerage and advisory services.
As a firm providing wealth management services to clients, UBS Financial Services Inc. offers investment advisory services in its capacity as an SEC-registered investment adviser and brokerage services in its capacity as an SEC-registered broker-dealer. Investment advisory services and brokerage services are separate and distinct, differ in material ways and are governed by different laws and separate arrangements. It is important that you understand the ways in which we conduct business, and that you carefully read the agreements and disclosures that we provide to you about the products or services we offer. For more information, please review the client relationship summary provided at **ubs.com/relationshipsummary**, or ask your UBS Financial Advisor for a copy.

Approval code: IS2401006
Expiration date: 02/28/2025