



Impact of the 2025 Tax Act on Family Office Structuring

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Since 2018, many family offices have been structured so that their investment advisory and management expenses are potentially deductible for federal income tax purposes. Before 2018, individuals, estates, and trusts were generally able to deduct miscellaneous itemized deductions (including investment advisory and management expenses) to the extent they exceeded 2% of the taxpayer's adjusted gross income. This deduction

was suspended for 2018 through 2025, with the suspension set to expire at the end of 2025. However, the 2025 tax act permanently repeals the deduction.¹ Consequently, structuring a family office with deductibility of investment advisory and management expenses for federal income tax purposes as one of the goals will continue to be advantageous.

¹ For a general discussion of the 2025 tax act, see Jacqueline Denton and Andrea Levine Sanft, *The One Big Beautiful Bill Act Signed into Law, Which Includes Many Provisions Affecting the Taxation of Individuals* (a publication of the UBS Advanced Planning Group).

Ultra high net worth individuals and families may consider setting up a family office to manage their wealth, carry out the administrative needs of numerous stakeholders, and possibly improve tax efficiency. The decision of whether to establish a family office often begins with an analysis of the potential economic benefit of the family office, weighed against the cost to organize and maintain the structure. The benefit is generally driven by potential deductibility of investment advisory and management expenses (and some other expenses) that would be nondeductible if incurred outside of a properly structured family office.

A trade or business can deduct its ordinary and necessary expenses regardless of the treatment of miscellaneous itemized deductions under federal tax law. Accordingly, an investment management enterprise that operates as a trade or business can deduct its ordinary and necessary expenses, which can include investment advisory and management expenses.² Case law has provided some authority and guidance for family offices to enable them to operate as a trade or business and therefore deduct investment advisory and management expenses.³ For a more in-depth discussion of these tax issues, see Brian Schimpf and Brian

Hans, *Economics of Structuring a Family Office* (a publication of the UBS Advanced Planning Group).

Before the enactment of the 2025 tax act, there had been some question as to whether setting up a family office structure designed to allow the deductibility of investment advisory and management expenses would be less economically advantageous beginning in 2026. The concern had been that, if individuals, trusts, and estates were again able to deduct miscellaneous itemized deductions, then the family office structure, which potentially permits the deductibility of investment advisory and management expenses as trade or business expenses, would be relatively less beneficial. However, with the 2025 tax act permanently eliminating the ability of individuals, estates, and trusts to deduct miscellaneous itemized deductions, the economic rationale driving family office structuring will remain the same going forward as it has been from 2018 through 2025. Moreover, the 2025 tax act permanently extends current individual income tax rates, retaining the top rate of 37%, and permanently fixes the top corporate tax rate at 21%. This clarity enables more confident long-term planning decisions, including with respect to family office structuring.

² IRC § 162.

³ *Lender Management LLC v. Commissioner*, T.C. Memo. 2017-246.

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