Mike Miranda:

Welcome to Beyond the Portfolio. I'm Mike Miranda, Head of Investments for BMO Private Wealth North America. In each episode, we'll bring you expert analysis from BMO's top strategists and economists to help you navigate market conditions and stay informed. Before we get started, I want to take a moment to set the stage for today's episode. Over the past few weeks on Beyond the Portfolio, we've spent time walking through our four-part outlook for 2026, focusing on markets, the economy, and portfolio positioning. If you haven't listened to that yet, I'd encourage you to go back and take a listen.

What we wanted to do next was extend that conversation beyond investments and into the planning decisions that really sit around the portfolio. And that's exactly what today's discussion is about. You'll also notice something a little different today. This is the first episode I won't be moderating. We're excited to start bringing in additional voices from across our platform to host these conversations, and you'll see more of that in the months ahead. With that, I'm thrilled to hand it over to Pratik Patel, who will be moderating today's discussion. Pratik, over to you.

Pratik Patel:

Thank you, Mike. And hello, everyone. I'm excited to be here for my first episode as host. I want to start by saying I'm not unaware that I'm stepping into a show with such a loyal following, and I do promise to take that responsibility seriously. My goal is to continue delivering conversations that help you make informed and competent decisions. But instead of focusing on the investment side, with a focus on the tax and strategic planning side of wealth management.

To that end, for our first episode, I wanted to bring forward insights from one of the most important events on the planning side of our industry, Heckerling. Heckerling is the largest estate and tax planning conference in the country. Over 4,000 professionals gather every year to understand what's changing and what families should be aware of. And joining me today is someone who joined me at Heckerling this year and knows the conference as well as anyone, Michelle Mieras. Michelle is an attorney, a senior wealth strategist at BMO, and a longtime conference reporter. Michelle, welcome to the show.

Michelle Mieras:

Thanks, Pratik. Happy to be here.

Pratik Patel:

All right, Michelle. For our listeners who may not be familiar with it, how would you describe Heckerling?

Michelle Mieras:

Well, it's hard to put into just a few words, but it's essentially the central annual gathering for estate, tax, and financial planning professionals. Attorneys, CPAs, wealth strategists, everybody you could think of related to planning all come together to learn about current developments and just how they affect our family's planning.

Pratik Patel:

Yeah, that's a lot of brainpower. So today I want to focus on three themes that I think stood out this year and that matter directly to our clients. The One Big Beautiful Bill Act or OB3, SLATS, and trust

location. So let's begin with OB3, and here I want to focus on taxes, specifically estate and income taxes. Very high level, the bill extended portions of the 2017 tax law and set the estate tax exemption at $15 million per person index for inflation. On the estate side, what should families be focused on today, Michelle?

Michelle Mieras:

Sure. One key point is that for the first time in a very long time, there's no scheduled sunset or expiration of this heightened exemption. But we all know that tax laws change with political shifts, so families shouldn't assume that this level is permanent. Plans need to be flexible enough to adapt if the exemption is reduced in the future.

Pratik Patel:

I love that you used the word flexible. For me, that's really the bedmark of a good plan and something we really emphasize in our planning. Work with the rules as they exist today, but be prepared for not if, but when they change.

Michelle Mieras:

For clients whose plans were built when the exemption was much lower or even when higher, but anticipating the 2025 sunset that was scheduled to occur, a plan review is important. Many older documents use formulas tied to the exemption amount to divide assets among trusts. With today's higher exemption, those formulas may produce very different results than they originally intended.

Pratik Patel:

Yeah, it's a good point. OB3 also made changes on the income tax side, especially around deductions. Can you walk through some of those [inaudible 00:04:08]?

Michelle Mieras:

Absolutely. Two areas where clients may notice changes come to mind. First, charitable contribution deductions. OB3 introduced a floor of 0.5% of adjusted gross income for charitable deductions starting in 2026. This means that only the portion of charitable contributions above 0.5% of AGI is deductible. For high income families, that floor can significantly reduce the value of charitable giving. Clients may want to bunch contributions to clear the floor in a single year.

The second is itemized deduction limitations. OB3 also added a new limitation affecting families in the highest federal income tax bracket. Certain itemized deductions, including charitable deductions and taxes, are reduced or phased out when income reaches certain thresholds. Trusts hit the top tax bracket very quickly, which meats their deductions may be limited more frequently.

Pratik Patel:

So what I'm hearing is clients should revisit charitable and itemized deduction strategies under these new rules. Really good point. Okay. Let's shift to SLAT, spousal lifetime access trusts. If I had to guess for taxable states, this is a single most used trust strategy, and it's probably not even all that close. These were extremely popular when the exemption was expected to fall. And even with the higher exemption holding for now, SLATs still have important uses. But before I get ahead of myself, for our listeners who aren't familiar, what is a SLAT?

Michelle Mieras:

Sure. The concept behind a SLAT is that one spouse transfers assets to an irrevocable trust for the benefit of the other spouse. This removes the assets from the taxable estate while still allowing one spouse access and potentially indirect access for the family.

Pratik Patel:

All right. And SLATs are drafted as grantor or defective trust for income tax purposes. Can you explain to our audience why that's important?

Michelle Mieras:

Although the trust owns the assets for estate tax and asset protection purposes, the grantor continues to pay the income taxes personally. This has two major benefits for clients with larger estates. First of all, the trust assets get to grow effectively tax-free since the taxes are paid out of the grantor's personal assets. Secondly, the grantor's personal estate is reduced through payment of those taxes, which can be really beneficial for clients who are looking to reduce their transfer tax exposure.

Pratik Patel:

So on the surface, this sounds perfect. You get all of the estate and asset protection benefits of an irrevocable trust, maintain some level of access to those assets to the extent needed, and can actually amplify the size of the gift going to the next generation because of the grantor trust tax rules. But there are downsides. If let's say too many assets are moved into the SLAT, that might mean a significant tax bill, and that can create financial strain. What are some of the other considerations they highlighted at Heckerling that you need to look out for SLATs?

Michelle Mieras:

Sure. Beyond the tax component, there's a lot of practical considerations. So first of all, administration really needs to be consistent with the terms of the trust. Secondly, the trust shouldn't hold assets that the family relies on for daily living. In other words, don't rely on the trust, use it as a source of last resort. Thirdly, divorce or death of the initial beneficiary spouse can end access for the family, and that needs to be carefully considered at the front end. And finally, creating two nearly identical SLATs could raise IRS scrutiny and really ultimately result in the unwinding of those trusts from an estate tax standpoint.

Pratik Patel:

So what I'm hearing is SLATs remain a powerful tool, but as always, they require careful design. And with the exemption no longer set to sunset, families have more time to make informed decisions. All right, let's shift over to trust location. Let's talk about something many families overlook. The state law that governs their trusts.

Michelle Mieras:

Well, what's great about trusts is that they're really governed by state laws, and states trust laws vary significantly across the board. Some states offer stronger asset protection, others more favorable income tax treatment, some give more privacy, some give greater flexibility to update or modify older trusts. So state law is having a larger and more material impact on trust today than ever before.

Pratik Patel:

And with families and trustees often living in or moving amongst different states, the applicable law can shift in ways clients don't expect, right?

Michelle Mieras:

Exactly. So really reviewing the governing law provision of the trust and discussing whether or not the applicable state law carries out your goals is crucial.

Pratik Patel:

Fantastic. Michelle, thank you so much for extracting key points from a technical conference and translating them into some practical insights.

Michelle Mieras:

It was my pleasure.

Pratik Patel:

All right. Some takeaways for our audience. Here are three key questions to bring to your next planning discussion. One, does OB3 change anything in our plan today? Do my existing trust, including SLAT still fit our goals? And is my trust governed by the right state's laws? With that, I want to thank everyone for joining us and we will see you on the next episode of Beyond the Portfolio.

Mike Miranda:

Thank you for listening to Beyond the Portfolio. You can follow us on Apple Podcasts, Spotify, or your favorite podcast app. Until next time, I'm Mike Miranda.

Speaker 4:

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