Real Estate Tax Update: What You Need to Know Now

The tax landscape for real estate professionals has shifted significantly in 2025. Sarah Shirley and Alan Duncan discuss details covering topics from the permanently restored depreciation benefits, to a brand-new manufacturing deduction, the One Big Beautiful Bill Act (OBBBA), and updated Opportunity Zones. These regulations are creating real, actionable opportunities for real estate owners and investors who plan proactively.

2026 REAL ESTATE TAX UPDATE: KEY OBBBA PROVISIONS FOR COMMERCIAL OWNERS

- **100% bonus depreciation** is back - permanently. The phasedown that had dropped to 40% in 2025 has been reversed. Full 100% bonus depreciation is now permanent law. However, a critical cutoff applies - properties under contract before January 20, 2025 are still subject to the old phasedown rates, regardless of when they closed. **Cost segregation studies** are now more valuable than ever.
- **Section 179** limits are doubled. The expensing limit jumped from $1.25 million to $2.5 million, with the phaseout threshold rising to $4 million. These limits are indexed for inflation annually.
- QBI deduction is made permanent. The 20% **Qualified Business Income** deduction will not sunset. The phase-in range was also widened, providing more relief for taxpayers just above the income threshold, and a new $400 minimum deduction was introduced for materially participating business owners.
- The **SALT cap** was raised to $40,000, though this provision is due to sunset back to $10,000 in 2030 - making long-term tax planning around it essential.
- **Estate and gift tax exemptions** are permanently set at $15 million per person ($30 million per couple), indexed for inflation.
- **1031 Exchanges**: No change - Like-kind exchange rules remain intact. Note that for replacement property, only the excess basis above the carryover qualifies for the new 100% bonus depreciation rate.

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New Qualified Production Property Deduction: Tax Benefits for Manufacturing and Commercial Real Estate (SECTION 168n)

This new code section allows 100% immediate expensing of the portion of non-residential real property used in a qualified production activity through a depreciation deduction - in year one, rather than over 39 years.

- Applies to both new construction and existing buildings, including warehouse conversions, with specific exclusions for each:
  - New construction: construction must begin after January 19, 2025 and before January 1, 2029. It also must be placed in service before January 1, 2031.
  - Existing buildings: The property cannot have been previously used for qualifying production activities between January 1, 2021 and May 12, 2025.
- Qualified production activities are manufacturing, production, or refining of a product resulting in a "substantial transformation" of the underlying material - think wood pulp into paper, or steel rods into screws and bolts. "Production itself is narrowly limited to agricultural and chemical production; manufacturing and refining are intentionally broad, reaching businesses that don't think of themselves as manufacturers (e.g., coffee roasting, natural gas liquefaction). Simple assembly, packaging, or storage of finished goods doesn't count.
- Common real estate structures where the building is held in one LLC and the operating business in another can still qualify, provided the entities are commonly controlled, per IRS Notice 2026-16.
- A space segregation study is recommended for documentation purposes, and a 10-year recapture window applies if the property stops being used for qualifying production.

PERMANENT OPPORTUNITY ZONES: NEW TAX PLANNING OPPORTUNITIES FOR REAL ESTATE INVESTORS

Opportunity Zones (OZ), which were set to expire, are now permanent law - restoring the full planning runway for real estate investors with capital gains.

- Defer capital gains from any asset sale by investing in a **Qualified Opportunity Fund (QOF)** within 180 days.
- At year 5, 10% of the original deferred gain is forgiven (30% for Qualified Rural Opportunity Funds).

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- At year 10, all appreciation on the investment exits completely tax free.
- The fixed December 31, 2026 gain recognition deadline from the original program has been replaced with a rolling 5-year window from each investor's entry date - but investors in pre-2026 OZ structures should note that the old deadline still applies.
- Opportunity Zones maps are being redrawn now, with new zones taking effect January 1, 2027 - making year-end 2026 a critical planning date.

HOW AI IS TRANSFORMING COMMERCIAL REAL ESTATE OPERATIONS

AI tools are increasingly being used across the real estate industry for property valuation, lease abstraction, deal underwriting, property management, portfolio reporting, and tenant screening. A 2025 Deloitte survey found that 76% of commercial real estate professionals were already researching, piloting, or in early implementation of AI tools.

While efficiency gains are real, a few important considerations apply:

- **AI-generated outputs** still require professional review. Models can produce confident-looking results built on flawed assumptions.
- **Fair housing regulations** apply regardless of whether a decision is made by a person or by an algorithm - compliance obligations do not change because AI is involved.
- Human judgement and technical expertise remain essential for interpreting what the data means in the context of your specific situation.

COMMONLY OVERLOOKED DEDUCTIONS FOR REAL ESTATE BUSINESSES

- Home office deduction for qualifying Schedule C and Schedule E businesses.
- **Standard mileage rate** of 72.5 cents per mile for 2026 (up from 70 cents in 2025). The IRS just announced a mid-year increase to 76 cents/mile, effective July 1, 2026.
- Cell phones, business travel, education, and property management software.
- **Hiring your minor children** for real work - deductible to you, largely tax-free and FICA exempt for them if under the age of 18. Only applies to sole proprietorships or partnerships where every partner is a parent.

- **De Minimis Safe Harbor Election** - items costing $2,500 or less per invoice can be immediately expensed rather than depreciated.
- **Business gifts** up to $25 per recipient per year (incidental costs like gift wrap and shipping do not count toward the limit)

BOTTOM LINE

Several of the provisions covered in this summary carry specific timing requirements or deadlines. The binding contract rule for bonus depreciation, the construction start deadlines for the new manufacturing deduction, the December 31, 2025 documentation deadline for existing Opportunity Zones positions, and the upcoming remapping of Opportunity Zones all point to the importance of reviewing your current real estate holdings and future plans with a qualified tax professional before year-end 2026.

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