

CLIENT ALERT

California's Billionaire Tax is Headed to the November Ballot: What Wealthy Families Should Know Now

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What Is Happening

The "2026 Billionaire Tax Act" is now officially on the California ballot with the passing of the June 25th deadline for withdrawal. If approved by California voters in November, the measure would impose a one-time excise tax for the 2026 tax year on certain California-resident individuals and certain trusts.

The measure is not yet law, and it is very likely to draw prompt constitutional and administrative challenges if enacted. Nevertheless, its certainty to be on the ballot creates immediate planning considerations.

Who Would Be Subject to the Tax

- **Applicable individuals with a net worth of \$1 billion or more.** An "applicable individual" is an individual who is a California resident on January 1, 2026, with a married couple treated as one individual. Critically, (a) a grantor trust is included in the grantor's net worth for the purposes of the tax and (b) a beneficiary may

also be treated as the deemed owner of trust assets that are distributable to the beneficiary for the purposes of determining that beneficiary's net worth.

- **Applicable trusts.** Non-grantors trusts may be taxed, whether or not such trust is a California resident for income tax purposes, if a living applicable individual with net worth of at least \$1 billion transferred property to the trust.

Key Provisions to Understand

- **Threshold and rate.** Individuals enter the regime at \$1 billion of net worth, but the individual rate phases in between \$1 billion and \$1.1 billion and reaches 5% at \$1.1 billion. The tax is imposed on total net worth, not merely on net worth above the threshold. The statutory phase-in applies only to individuals, not to trusts. All applicable trusts are taxed at the 5% rate.
- **Broad Asset Inclusion.** Virtually all worldwide assets are included—stocks, business interests, art, IP, and personal property. The value of all grantor trusts and non-grantor trusts to which assets were transferred in 2025 and 2026 are attributed to the taxpayer.
- **Aggressive Valuation Rules.** Private business interests are valued using a presumptive formula (book value + 7.5x average book profits). No valuation discounts are allowed for partial or minority interests. Recent funding rounds and insurance values set floors for asset values.
- **Limited Exclusions.** Directly held real property may be excluded. Qualified pensions/IRAs are generally excluded, and Roth accounts are excluded only up to \$10 million aggregate.
- **Deductions.** Applicable individuals and applicable trusts are generally not eligible for deductions based on partial-year residency or prior residency history. In addition, the tax is not deductible for California income tax purposes.
- **Anti-Avoidance Provisions.** The tax authority may disregard transactions lacking economic substance. Transfers for less than fair market value after October 15, 2025 remain in the transferor's net worth. Penalties of 20–40% apply for substantial understatements.
- **Charitable Pledges and Donations.** Pledges to charitable or philanthropic organizations made after October 15, 2025 cannot reduce net worth under any circumstances. Even pledges made before that date reduce net worth only if legally enforceable by the recipient organization. Charitable donations made by an applicable individual after October 15, 2025 may also be included in the applicable individual's net worth. However, distributions to charitable or philanthropic organizations made by trusts after October 15, 2025 may reduce net worth, if permitted by the trust.
- **Payment Options.** Pay in full with the 2026 tax return, or in 5 annual installments subject to a 7.5% annual deferral charge. An Optional Deferral Account is available under certain conditions but creates a binding contract subjecting the taxpayer to ongoing California jurisdiction.

IMMEDIATE ACTION REQUIRED

If you believe your net worth is at or approaching \$1 billion, the planning window is now. Clients should not assume enactment, but with the December 31, 2026 valuation date rapidly approaching, clients should begin to consider residency analysis, trust structures, asset valuation strategies, and potential challenges, if they have not already done so.

Please reach out to your Willkie Private Wealth attorney or any member of our [Private Wealth Practice Group](#) immediately to discuss how this measure may affect you and your family.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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