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Tax outlook for businesses in 2026

The One Big Beautiful Bill Act (OBBBA) and other IRS actions during 2025 have created plenty of additional work for corporate tax departments and their tax advisors in 2026. Much of OBBBA's focus was on extension of expiring individual Tax Cuts and Jobs Act (TCJA) provisions. However, OBBBA also contained many new provisions that impact businesses. These provisions may cause difficulties due to the lack of sufficient IRS guidance on many issues.

Business provisions that expired or phased down under TCJA

100% bonus depreciation had already expired when OBBBA was enacted, and OBBBA only revived it for equipment purchases after Jan. 19, 2025. This will leave businesses having to deal with two different depreciation rules for equipment acquired at different times in 2025, and no further retroactive restoration for earlier years.

Full expensing of research and experimental expenses had also expired. OBBBA restored full expensing to the beginning of 2025. While there is no retroactive application for larger businesses, smaller businesses with gross receipts of up to $31 million may elect to restore full expensing to tax years beginning after Dec. 31, 2021. The IRS has started to issue guidance on these issues, with more expected.

The business interest deduction limitation under TCJA also lost the adjustment for depreciation and amortization. OBBBA only restored this adjustment after Dec. 31, 2024, leaving a period without retroactive restoration.

Code Sec. 179 expensing changes included a new $2.5 million limit and only phasing out as costs exceed $4 million.

The qualified business income deduction for pass-through entities was made permanent at 20% after Congress debated raising it to 23%.

Clean energy credits

Under OBBBA, most clean energy credits were subject to more rapid phase-downs and terminations than provided by the Inflation Reduction Act. The individual clean energy credits for vehicles and homes expired in 2025. Businesses with projects underway or announced in many states were able to work with their Congressional representatives to try to preserve the credits for these projects. There remains concern among these businesses over how the IRS will define "placed in service" for purposes of determining whether these projects will be considered complete in time to qualify for the credits.

Similarly, OBBBA enacted a new 100% depreciation provision for qualified production property. However, the property must be constructed after Jan. 10, 2025 and before Jan. 1, 2029, and be placed in service before 2031, with similar concerns about how that will be defined by the IRS.

Documenting tips and overtime

Businesses are required to report to the IRS the qualified tips and overtime their employees or contractors receive. For 2025, the IRS has agreed to waive penalties if businesses fail to report qualified tips and overtime, provided the qualified amounts are included in the total W-2 or 1099 payments reported. However, there may be pressure from employees for the employers to provide 2025 numbers to assist them with tax reporting.

Further, in 2026, businesses are expected to track qualified tips and overtime. Determining qualified tips requires segregating cash or cash equivalent tips from tips in kind. It also requires segregating service charges that are not voluntarily tendered by clients and customers.

Tracking qualified overtime requires only counting the half-time paid in excess of regular pay, per the Fair Labor Standards Act — not the entire amount paid for an extra hour of overtime, not overtime paid on daily hours worked instead of based on a 40-hour work week and not the entire amount paid for an overtime hour worked in excess of time and a half.

The IRS has stated that they will not be revising the 2025 W-2 and 1099 forms to reflect these changes. A new draft Form W-2 for 2026 indicates their initial thoughts on proposed changes.

International tax changes

OBBBA made major changes to the international tax provisions first put in place in TCJA. Foreign-derived intangible income (FDII) becomes foreign-derived deduction eligible income (FEDDI). Global intangible low-taxed income (GILTI) becomes net CFC tested income (NCTI).

The tax rates are generally adjusted for tax years beginning after Dec. 31, 2025. The pro rata share rule governing how U.S. shareholders of controlled foreign corporations (CFCs) calculate their share of income is modified. This will require multinational businesses to adjust their modeling of the tax impact of international transactions.

Corporate alternative minimum tax (CAMT)

Although not affected by OBBBA, the IRS has been modifying CAMT exceptions and the calculation of adjusted financial statement income.

Qualified small business stock (QSBS)

OBBBA also made enhancements to Code Sec. 1202 QSBS. In addition to the 100% exclusion for investments held for five years, OBBBA added a 50% exclusion for investments held for three years and a 75% exclusion for investments held for four years, all generally effective for tax years beginning after July 4, 2025. Also, more corporations can qualify, with the gross asset value limit increased from $50 million to $75 million, and the maximum amount of capital gain excludable increased from $10 million to $15 million or 10 times the adjusted basis in the stock, if greater. This will make choosing the C corporation entity more attractive.

Qualified opportunity zones (QOZs)

OBBBA made QOZs permanent with several adjustments. There is also a focus on new qualified rural opportunity zones (QROZs), with a 30% basis step-up if the investment is held for five years. Every 10 years, state governments must propose new QOZs, which the Treasury Secretary must certify. Reporting rules with noncompliance penalties are also expanded. Some of the new rules apply to investments made on or after Jan. 1, 2027, leaving a potential zone of inactivity until then.

Other business issues

Work opportunity tax credit (WOTC)

OBBBA failed to extend the WOTC, which expired on Dec. 31, 2025. The WOTC has expired in the past and been retroactively extended by Congress. Businesses will have to decide whether to rely on a potential retroactive extension this time.

SALT deduction

Along with increasing the SALT deduction for individuals to $40,000 through 2030, OBBBA also preserved the pass-through entity workaround that was developed after TCJA.

Scholarship-granting organizations

A new tax credit is available for contributions to scholarship-granting organizations.

Paid family and medical leave

Paid family and medical leave was made permanent.

1099 reporting

OBBBA modified the reporting requirements for Forms 1099-MISC and 1099-NEC from $600 to $2,000, effective in 2026. The reporting requirements for Form 1099-K were retroactively restored to $20,000 and 200 transactions. However, the IRS has not revised the 2025 form to reflect this change.

Employee retention credit

The IRS continues to focus on abuse of the employee retention credit, with OBBBA adding a penalty of $1,000 per failure.

Trump accounts

The new OBBBA-created Trump accounts are likely to be popular starting in 2026 due to the $1,000 seed money from the federal government and possible contributions from other government entities or charitable organizations. Businesses will need to evaluate whether they want to help employees fund Trump accounts up to $2,500 per year.

Child and dependent care

OBBBA increased the limit on employer-dependent care assistance from $5,000 to $7,500. The employer-provided child-care credit had the 25% limit increased to 40%, 50% for small businesses. The maximum was also increased from $150,000 to $500,000, $600,000 for small businesses.

Corporate charitable contributions

OBBBA introduced a new 1% floor on corporate charitable contributions starting in 2026.

Executive compensation deduction

The limit on deductions for executive compensation was modified to apply to more employees and to entire controlled groups.

Residential construction

Certain residential construction projects are now eligible for the complete contract method rather than the percentage-of-completion method.

New markets tax credit

OBBBA made the new markets tax credit permanent. ■

Final regulations amending SECURE 2.0 Act catch-up contribution rules

The IRS issued final regulations implementing the Roth catch-up contribution requirement for certain participants, as well as other statutory changes to catch-up contributions made by the SECURE 2.0 Act of 2022 (P.L. 117-328) (90 Fed. Reg. 44527). The regulations affect qualified retirement plans that allow catch-up contributions, including 401(k), 403(b), governmental, SEP and SIMPLE plans.

The final regulations are effective on Nov. 17, 2025, and generally apply for contributions in tax years beginning after Dec. 31, 2026, with extensions for collectively bargained, multi-employer and governmental plans. However, plans may elect to apply the final rules in earlier tax years. They also permit plans to implement the Roth catch-up requirement for taxable years beginning before 2027, using a reasonable, good-faith interpretation of statutory provisions. They do not extend or modify the administrative transition period provided under IRS Notice 2023-62, which generally ends on Dec. 31, 2025.

"The regulations affect qualified retirement plans that allow catch-up contributions, including 401(k), 403(b), governmental, SEP and SIMPLE plans."

The final regulations reflect the SECURE 2.0 changes that amended the catch-up contribution provisions to allow increased contribution limits for participants age 60 through 63 and for certain SIMPLE plans. SIMPLE plans may allow a participant to take advantage of one of these increased contribution limits but not both. However, beginning with the 2025 calendar year, a SIMPLE plan providing increased contribution limits for all participants may instead permit participants age 60 to 63 to contribute the full amount allowed for that age group.

Deemed Roth catch-up election

The final regulations also address mandatory designated Roth catch-up contributions for participants whose income exceeds the Roth catch-up wage statutory threshold. They allow 401(k) and 403(b) plans to automatically treat catch-up contributions as Roth for affected participants, provided an opt-out opportunity is offered. The regulations do not include a rule allowing deemed Roth elections for all employees' catch-up contributions, only employees whose income exceeds the threshold. Deemed elections must cease within a reasonable period following the date on which the employee no longer meets the mandatory Roth threshold, or an amended Form W-2 is filed or furnished to the employee indicating they no longer meet the mandatory Roth threshold. As a result, Roth catch-up contributions made pursuant to the deemed election before the end of the reasonable period need not be recharacterized as pretax catch-up contributions. ■

Former employees lacked standing to claim 401(k) plan mismanaged savings

The Second Circuit ruled a district court correctly dismissed on Article III standing grounds the claims of participants in a 401(k) plan alleging the plan sponsor and administrator mismanaged participants' retirement savings by failing to follow a prudent process for administering the plan and by failing to act in the exclusive interest of plan participants. The appeals court agreed with the district court that the employees did not claim they suffered any loss in their individual retirement accounts from the defendants' allegedly imprudent share class selection and failure to investigate alternative fund availability, or from their alleged breach of fiduciary duty in providing indirect compensation to the plan's recordkeeper. (*Collins v. Northeast Grocery, Inc.*, CA-2, 149 F4th 163, Aug. 18, 2025.)

401(k) pension plan

The plaintiffs were four former grocery store chain employees who participated in a 401(k) pension plan covered by ERISA. These former employees asserted that the plan's fiduciaries mismanaged the plan and violated ERISA. They brought a class action on behalf of themselves and a proposed class of participants, seeking disgorgement and injunctive relief, including the replacement of some fiduciaries.

The defendants were fiduciaries of the plan: the sponsor, administrator and administrative committee.

Imprudent investments

Participants in such a plan maintain individual investment accounts whose value is determined by the market performance of employee and employer contributions, less expenses. The plan's administrators select a menu of investment options for participants, who choose where to invest their retirement contributions.

This plan provided participants with 28 pre-selected investment options. The employees sought relief for the defendants' allegedly imprudent and disloyal management of the plan under 29 U.S.C. §§ 1132(a)(2) and (a)(3).

They alleged the defendants failed to:

- Establish a prudent process to select and monitor the plan's investments, performance and fees
- Investigate the availability of lower-cost, equal or better performing share classes and alternative funds
- Monitor the performance of fund managers
- Monitor and control the performance and related trust costs of the plan's investment adviser
- Monitor and control recordkeeper fees

They also claimed the defendants, by seeking open-ended investment company revenue-sharing dollars for their own benefit, failed to act in the exclusive interest of plan participants.

Lower court rulings

The district court granted the defendants' motion to dismiss the complaint. It held that the employees failed to establish they had Article III standing to bring claims alleging fiduciary breaches arising from the defendants' share class selection, revenue sharing and failure to investigate alternative fund availability. In particular, the court found that the employees had not alleged any constitutionally cognizable injury in connection with the specific investment options criticized, in which they did not invest.

By contrast, the district court held that the employees had standing to allege fiduciary breaches arising from the defendants' failure to monitor the performance of portfolio managers of three funds, the investment manager's performance and costs, and the plan's direct compensation of its recordkeeper. The district court dismissed these claims due to failure to state a claim.

Standing

There was no dispute that ERISA gave the employees a cause of action to sue the defendants. To achieve its goal of protecting individual pension rights, ERISA imposes standards of conduct, responsibility and obligations on plan fiduciaries. It creates a private right of action for plan participants such as the employees to sue for relief due to an alleged ERISA violation. However, the fact that the employees alleged various ERISA violations did not necessarily provide constitutional standing or class standing.

Guidance for claiming tip, overtime and car loan interest deductions

The IRS has issued guidance for employers and individual taxpayers on claiming 2025 deductions for tips, overtime and car loan interest. While encouraging as much compliance as possible, the IRS is waiving penalties for 2025 on employers and lenders for failure to meet all the new reporting requirements. The IRS has also issued a draft Schedule 1-A on the 2025 tax return for calculation of these deductions and the new deduction for seniors.

Employers are expected to at least report the totals of overtime paid and tips received, even if they are not necessarily calculating qualified overtime and tips. Recipients of overtime and tips should still generally be able to support that any claimed deductions for qualified overtime and tips on 2025 returns meet the statute's requirements.

Notice 2025-62

Notice 2025-62 states that no penalties will be imposed for the 2025 tax year under Code Sec. 6721 or 6722 for failing to separately account for qualified tips and overtime on information returns or payee statements. The notice also states employers must still timely and correctly furnish complete and correct Form W-2 information, including properly reporting tips and overtime. Employers are encouraged but not required to provide detailed information on qualified tips and overtime, including occupation codes and separate accounting of cash tips. They are also encouraged to include whether the business is a specified trade or business under Code Sec. 199A(d)(2), such as an accounting, law, medical, consulting or performing arts business for which tips are not considered qualified. Employers may provide this information through an online portal or other secure means, or by written communication. The IRS states that voluntary reporting for 2025 may help reduce employee inquiries.

The IRS will not be updating the 2025 Form W-2, Form 1099s or withholding tables. However, a draft Form W-2 for 2026 shows qualified tips and overtime reported in Box 12 and the Treasury Tipped Occupation Code (TTOC) reported in Box 14b.

This leaves employees and independent contractors uncertain about how much information they will have from their employers or contractors as a guide to reporting the correct amount of tips and overtime deductible on their tax returns.

Notice 2025-69

Tips

Notice 2025-69 states an employee may treat the requirement that qualified tips be included on a statement furnished to the employee for 2025 as satisfied if their cash tips are properly reported on their W-2 without regard to whether there is a separate account for the total amount of cash tips.

Whether or not the employer has provided an occupation code for the employee, the employee is responsible for determining if the tips were received in an occupation that customarily and regularly received tips on or before Dec. 31, 2024, as provided by the Secretary of the Treasury.

> "The IRS has issued guidance for employers and individual taxpayers on claiming 2025 deductions for tips, overtime and car loan interest."

For 2025, the IRS will treat an employee as having received tips in a trade or business that is not a specified service trade or business (SSTB) if it fits one of the occupation codes provided by the Secretary of the Treasury.

If non-employee cash tips are included in the total amounts reported as other income on Form 1099-MISC, non-employee compensation on Form 1099-NEC or payment card/third-party network transactions on Form 1099-K, the non-employee may calculate qualified tips using earnings statements or other documentation to corroborate for 2025. The non-employee may also request additional information from the payor. The occupation code requirements and SSTB waiver for 2025 also apply to non-employees.

Overtime

Notice 2025-69 provides that payments over the Fair Labor Standards Act (FLSA) required premiums are not qualified overtime. Only the additional half of pay premium above regular pay is considered qualified overtime. The employee should confirm that their employer is an FLSA employer.

For 2025, qualified overtime may be reported anywhere on Form W-2 or a separate statement. It also may be on Form 1099-NEC or 1099-MISC.

Notice 2025-57

Notice 2025-57 provides that lenders of car loans will face no penalties for 2025 if they provide borrowers with a statement showing total interest paid in 2025 by Jan. 31, 2026. For 2025, this information may also be reported via online account portal, regular monthly statement or annual statement. A draft Form 198-VLI for 2026 requires reporting of the vehicle identification number (VIN), the loan origination date and interest details. The lender must report interest received of $600 or more to the IRS and the borrower.

For 2025, taxpayers seeking to claim the car loan interest deduction may not receive a formal IRS form documenting the interest paid, but may instead need to obtain the information from other lender reporting or their own records.

Taxpayer steps for claiming tip, overtime and car loan interest deductions

Taxpayers for 2025 should be proactive in tracking and documenting their own claims for tip, overtime and car loan interest deductions. This could include maintaining daily tip logs, saving pay stubs documenting 2025 overtime hours and pay, and maintaining records of interest paid for car loans originating in 2025.

Taxpayers should use the information provided for 2025, such as Forms W-2 from employers and Forms 1099 from contractors, and use Form 4137 for unreported tips. They should also look for any other relevant documentation provided by employers, contractors or lenders for 2025.

Draft Schedule 1-A leads the taxpayer through these calculations.

Starting in 2026, employers must state that the tips reported include only cash tips and the TTOC for which they qualify. The Treasury has currently designated 68 TTOCs for qualifying tips.

These include eight basic categories:

- Beverage and food services (100s codes)
- Entertainment and events (200s codes)
- Hospitality and guest services (300s codes)
- Home services (400s codes)
- Personal services (500s codes)
- Personal appearance and wellness (600s codes)
- Recreation and instruction (700s codes)
- Transportation and delivery (800s codes)

No SSTBs, such as accounting, law, medicine, consulting and performing arts, are qualifying occupations. The IRS could add further TTOCs to this list for 2025 tax returns. For 2025, if not provided by an employer or contractor, the taxpayer may need to identify a TTOC that applies.

For the car loan interest deduction, taxpayers must insert a VIN on Schedule 1-A for 2025. The VIN can be obtained from the vehicle or the dealer.

Taxpayers should also be aware that state tax rules may vary for these deductions. Since they are below-the-line deductions after adjusted gross income (AGI), and many state income tax calculations start with federal AGI, these deductions may not be allowed for state income tax purposes unless a specific provision is added to state law.

Summary

The options available for calculating the qualified tips and overtime deductions for 2025 may be confusing for many taxpayers. Taxpayers must still have documentation to support the deduction of tips and overtime, and must also be able to establish that they fall into one of the accepted occupation codes. They may also need to calculate qualifying tips and overtime themselves unless clear documentation is forthcoming from the employer or other payor.

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