

JULY 3, 2025 | WAGE & HOUR COMPLIANCE

The One Big Beautiful Bill's Overtime and Tax Provisions – Employer Consequences

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As we await the House of Representatives' vote on the One Big Beautiful Bill, let's highlight two key provisions that may soon impact employers and employees alike. The Senate bill under consideration before the House of Representatives provides workers above-the-line deductions for "qualified tips" and "qualified overtime compensation" for taxable years beginning after December 31, 2024, and ending for taxable years beginning after December 31, 2028.

1. "Qualified overtime compensation" must be paid in accordance with Section 7 of the Fair Labor Standards Act, which requires that employees be compensated at a rate that is in excess of the employee's regular rate (as used in that Section). However, it does not include any amounts treated as a "qualified tip." (More information on qualified tips below.)
 - The overtime deduction is limited to \$12,500 per year (\$25,000 for a joint return).
2. "Qualified tips" must be paid voluntarily to a person who works in an occupation that traditionally and customarily received tips on or before December 31, 2024.
 - The Senate bill directs the Secretary of the Treasury to develop a list of occupations that traditionally and customarily received tips on or before December 31, 2024, within 90 days of enacting the bill. However, the Senate bill specifically identifies certain industries that will be excluded from the tip deduction, including employees providing services in accounting, health, law, actuarial science, athletics, brokerage services, consulting, financial services, or the performing arts.
 - The deduction for tips is limited to \$25,000 per year.

Both deductions are limited to individuals with work-eligible social security numbers, and they are phased out for workers with modified adjusted gross income in excess of \$150,000 (\$300,000 for a joint return). Furthermore, the deduction for both qualified tips and overtime is only available to married taxpayers if they file jointly.

Below are some of the key issues that employers should be aware of and monitor closely if the bill passes, as proposed:

- Qualified tips and overtime must be reported on an employee's W-2 or 1099 for non-employees.
- Information reported for 2025 can approximate an accounting of qualified tips and overtime by any reasonable method specified by the Secretary of the Treasury.
- The bill directs the Secretary of the Treasury to modify the income tax withholding tables to reflect the deduction for tips and overtime, but only for tax years 2026 and beyond. Thus, there would be no change in income tax withholding for 2025.
- States may pass similar legislation to exempt qualified overtime or qualified tips from state income taxes and/or withholding.
- Neither FICA nor self-employment taxes are referenced in the bill, so presumably qualified overtime and tips will still be subject to those, and employers will be required to withhold FICA taxes.
- Some state overtime requirements are more generous (e.g. California), and it is unclear whether employers will have to track and report overtime actually paid as opposed to what is minimally required under the Fair Labor Standards Act. Tracking such nuances may be burdensome and is likely going to require new or re-programmed payroll/timekeeping software.

In sum, there are many unknown questions as to how these deductions will be managed going forward, especially beyond 2025. This year is intended to be a transition year where the reporting requirements are somewhat lax and not yet clearly defined. Further guidance will be necessary with respect to what is covered, how to report qualified tips and overtime on W-2 or 1099 Forms, and employer withholding obligations. Notably, the current W-2 and 1099 Forms do not contain input or space for reporting qualified overtime or tips or whether an employee is actually in an industry that customarily and regularly receives tips. With the significant funding cuts and reduction of the workforce at the IRS, it will be a tall task to implement these changes in such a short period and, if and when it gets done, employers will have a short turnaround time to come into compliance.

Conn Maciel Carey LLP's [Labor and Employment team](#) will be monitoring this changing landscape closely and is available to assist with any questions you may have.