



Payroll Insights

Employment tax news to guide you now and for the future

September 2025



John's fresh take: OBBBA Update: IRS Keeps 2025 Reporting Requirements Unchanged

The IRS has announced that there will be no changes to individual information returns or withholding tables for 2025 under the provisions of the One Big Beautiful Bill Act.

Employers waited with bated breath for the IRS to release guidance for the 2025 reporting of qualified overtime wages and tip income. We wondered if there would be a new form to file in January or, maybe, a new box on Form W-2. Could there be a new line on Form 941 as soon as the next quarterly return due date? In the chaos of reporting, don't forget that the qualified amounts still need to be calculated. To many employers, it seemed like an impossible task to comply with the new reporting rules *and* do their day jobs.

Luckily, the IRS announced that, as part of its phased implementation of the One Big Beautiful Bill Act (OBBBA), there will be no changes to information returns or federal income tax withholding tables for tax year 2025 to report qualified overtime or tip wages. Specifically, Form W-2, Form 1099-NEC, Form 941, and other payroll-related forms will remain unchanged, and employers and payroll providers should continue using current procedures for reporting and withholding. The IRS made this decision to avoid disruptions during the upcoming tax filing season and to give employers adequate time to prepare for future changes.

However, there's little time to celebrate because even though there is no 2025 Form 941 or Form W-2 reporting requirement for the employer, the employee deduction on their 2025 personal income tax return is still available. Consequently, the employer may be required to calculate 2025 qualified wages for the employee to report on their return. The IRS has not yet released guidance on if, or when, total 2025 qualified overtime and tip wages should be reported to the employees.

The IRS is developing new guidance and updated forms for tax year 2026, which will include changes to how tips and overtime pay are reported. Therefore, it's important for companies to routinely monitor IRS updates and Treasury Department announcements for new guidance and maintain proactive communication with their payroll providers. You can also track updates and progress in our monthly newsletter.

Tune in to our podcast as we address OBBBA and look for further updates as they occur in future Payroll Insights: [The One Big Beautiful Bill Act: Employment Tax Implications](#)



Federal updates



ACA Affordability Percentage Increases to 9.96% for 2026

The IRS issued its annual inflation adjustment for the percentage of household income used to figure out whether an employer's health care coverage offer is considered affordable under the Affordable Care Act (ACA). For plan years starting in 2026, the affordability threshold will increase to 9.96% of household income, up from 9.02%, for plans beginning in 2025. Under the ACA's employer mandate, applicable large employers must offer minimum essential coverage (MEC) that provides a minimum value and is affordable to all full-time employees. Affordability is measured by comparing an employee's required premium contribution for self-only coverage to a set percentage of their household income. If the employee's contribution does not exceed 9.96% of their household income for plan years starting in 2026, the coverage is considered affordable.

Additionally, the IRS released the Applicable Percentage Table for tax years beginning in 2026, which is used to determine premium tax credit eligibility under § 36B(b)(3)(A)(i) and § 1.36B-3(g). The table outlines the first and final percentage of household income, based on the employee's household income as a percentage of the Federal poverty line.

Applicable Percentage Table for Tax Year 2026

Household Income as % of Federal Poverty Line	Initial Percentage	Final Percentage
Less than 133%	2.10%	2.10%
At least 133% but less than 150%	3.14%	4.19%
At least 150% but less than 200%	4.19%	6.60%
At least 200% but less than 250%	6.60%	8.44%
At least 250% but less than 300%	8.44%	9.96%
At least 300% but not more than 400%	9.96%	9.96%

Employers should use these updated percentages to evaluate the affordability of their health plan offerings for the 2026 plan year and ensure compliance with ACA requirements.

US Department of Labor launches self-audit programs to help regulated community strengthen compliance with federal labor laws—

The U.S. Department of Labor (DOL) has announced the return of the Payroll Audit Independent Determination (PAID) program, managed by the Wage and Hour Division (WHD), with an expanded scope to include potential violations of the Family and Medical Leave Act (FMLA). The PAID program is designed to help employers proactively resolve possible Fair Labor Standards Act (FLSA) minimum wage and overtime violations; e.g., off-the-clock work, incorrect overtime pay rates, and salary basis issues for exempt employees. It also helps employers resolve certain FMLA violations; e.g., miscalculating available leave, incorrectly determining eligibility, and improper attendance point assessments related to FMLA leave, without facing litigation or penalties. Through the program, employers conduct self-audits, identify and report any violations, and ensure affected employees receive back wages or other remedies.

To participate, employers must complete two brief compliance reviews, one for FLSA and one for FMLA, and submit certificates of completion along with their self-audit documentation to the WHD. Employers then calculate the back wages owed or other remedies, send these findings to WHD, and work cooperatively to correct any mistakes. WHD reviews the submissions and issues a summary of unpaid wages or remedies due, which employers must fulfill within 15 days and provide proof of payment or remedy to WHD.

Eligible employers include those covered by FLSA and/or FMLA who are interested in resolving potential wage, overtime, tip retention, or FMLA claims and are committed to future compliance. Government entities may also participate for FLSA violations. However, employers who have used the PAID program in the past three years or have been found in violation of FLSA or FMLA by WHD or a court in the last three years are not eligible.

Draft 2026 Form W-2 Released

While there should be no changes to the 2025 Form W-2 for the OBBBA, the [draft 2026 Form W-2, Wage and Tax Statement](#), released by the IRS on August 15, incorporates significant changes stemming from the OBBBA. Most notably, a new Box 14b labeled "Treasury tipped occupation code" has been introduced, requiring employers to report a Treasury Occupation Code for tipped employees—a coding system that the IRS has yet to publish. Additionally,

the previous Box 14 is now designated as Box 14a, reflecting the expanded reporting requirements.

Further updates include the addition of new Box 12 codes to capture amounts related to provisions of the OBBBA. Specifically, employer contributions to Trump accounts will be coded "TA," "TP" for qualified tips under the Act, and "TT" for qualified overtime pay under the Act. These changes aim to streamline reporting and facilitate new tax benefits on the employees' personal returns introduced by the legislation.

Draft 2026 Form W-4 Released

The draft [2026 Form W-4](#), *Employee's Withholding Certificate*, released by the IRS on August 21, also incorporates changes stemming from the OBBBA. The instructions specifically identify tip income as a reason to use the IRS [Tax Withholding Estimator](#). The deductions worksheet for Step 4(b) includes fields for tip income, overtime compensation, new car loan interest deductions, and the \$6,000 deduction for seniors. The itemized deductions section reflects the increase in the 2026 maximum state and local tax deduction of up to \$40,400 (\$20,200 for married individuals filing separately), up from the \$10,000 limit in place prior to the OBBBA.

The instructions reflect placeholders for items such as itemized deduction limits and the standard deduction.

Updates to U.S. Per Diem Rates

The U.S. General Services Administration announced that the continental per diem rates, valid October 1, 2025, through September 30, 2026, will not change from the current rates.

Typically, if an employee's travel expenses meet the accountable plan rules, then per diem allowances do not need to be included in employee wages.

Updates to Disaster Relief States

The IRS periodically updates its list of states with disaster situations that are eligible for extended deadlines. New Mexico, Texas, and West Virginia have been added to the list with extended due dates of February 2, 2026. Employers in these states that are affected by the disaster situation are automatically granted an extension to February 2 for quarterly payroll returns due July 31, 2025, October 31, 2025, and January 31, 2026.

State Updates



OBBBA State Impact

The One Big Beautiful Bill Act (OBBBA) introduces several permanent changes to federal tax law, many of which originated in the 2017 Tax Cuts and Jobs Act (TCJA), and some new temporary provisions. As a result, state rules will reflect varying impacts from the OBBBA depending on how closely their tax codes conform to the Internal Revenue Code (IRC). States that automatically adopt the latest federal tax provisions will see immediate changes in areas such as transportation benefits, moving expense reimbursements, paid family leave credits, and tip income deductions, while states with fixed conformity dates or independent tax codes may keep previous rules unless they update their legislation. This divergence can lead to differences in tax treatment for employers and employees across state lines, making it important for taxpayers and businesses to stay informed about state-specific guidance and potential legislative updates.

Alabama

On August 14, 2025, the Alabama Tax Tribunal entered its final ruling in the case of *Candace Corley, Taxpayer, v. State of Alabama Department of Revenue*. The ruling, in favor of the Taxpayer, concerned a 2021 Alabama Department of Revenue (DOR) assessment of Alabama income tax against the Taxpayer for wages earned by the employee while physically in Florida. The DOR argued that the Taxpayer was performing services for an Alabama Employer and, therefore, the wages for these services should be sourced to Alabama.

The DOR supported this argument by discussing the Taxpayer's use of computer files, payroll systems, and software to provide services that generated income for the employer from Alabama sources. The Taxpayer countered that they were not performing services for an Alabama employer, and, in fact, all services performed generated income for the employer in Florida.

The Alabama Tax Tribunal's final ruling stated that: "the income earned by her during 2021 was not the result of 'business transacted in Alabama.' Therefore, the final assessment in issue is declared void." This

ruling did not address the DOR's interpretation of the Alabama tax code that 'transacting business in the state' does not require physical presence. Employers should monitor DOR communications for any clarifying guidance.

Colorado

Colorado's updated wage and hour law expands the definition of "employer" to include individuals owning or controlling at least 25% of a business. The law prohibits payroll deductions that reduce a worker's pay below minimum wage and increases the cap for wage claims adjudicated by the Division of Labor Standards and Statistics, with future adjustments for inflation. Penalties for misclassifying employees are raised, and violators' names will be published online. Protections against retaliation and discrimination are strengthened, including prohibiting adverse actions based on immigration status. Cities and counties are allowed to enact and enforce their own wage laws. The law also provides increased funding for enforcement and implementation.

Hawaii

Hawaii is the latest state to adopt the IRS electronic filing mandate for employers filing at least 10 Forms W-2 and HW-2, beginning January 1, 2026. The announcement from the Hawaii Department of Taxation includes a reminder that employers with an annual income tax withholding liability in excess of \$40,000 are required to file all withholding forms, even if there are fewer than 10 Forms W-2.

Wisconsin

On August 8, 2025, Governor Tony Evers vetoed a bill that statutorily classify application-based drivers (e.g., Uber, DoorDash) as independent contractors. The Governor's veto was based on the lack of meaningful guaranteed benefits.

This concept of codifying application-based (or "gig economy") drivers as independent contractors with stipulations for guaranteed benefits is not unique to Wisconsin. Alabama, Tennessee, and Utah recently passed similar legislation with varying degrees of guaranteed benefits. DoorDash has held discussions and implemented pilot programs in Georgia and Pennsylvania.

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