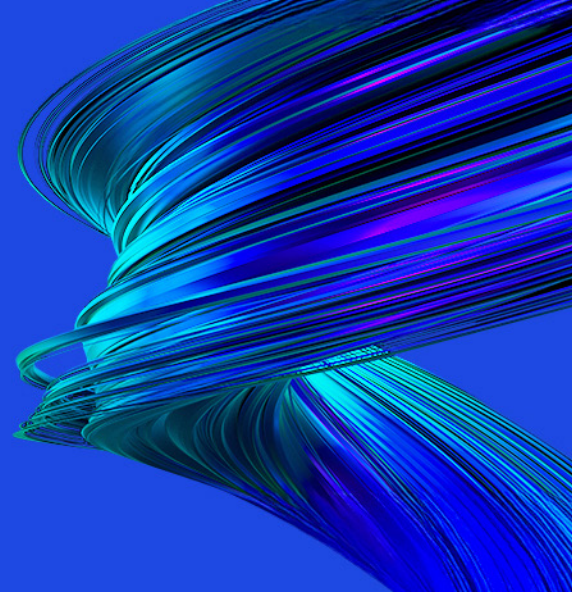




Payroll Insights

Employment tax news to guide you now and for the future

March 2026



John's fresh take: **Taking a proactive approach to SUI compliance in 2026**

Payroll tax professionals are very familiar with the concept of state unemployment insurance (SUI) tax. For those who aren't as familiar, SUI tax is a tax that an employer (and, in some states, employees) pays to support the state's payment of unemployment benefits. Each state determines its own wage base (the maximum annual wages subject to the tax) and tax rates. The wage base and/or rates may change annually.

Generally, employee wages should be subject to SUI tax in the state where they perform most of their services, with certain exceptions. An employee's wages should be sourced to one state unless the employee has a long-term or permanent change in work location.

Most states assign a tax rate based on the employer's history of contributions to the state fund and payment of unemployment benefits to former eligible employees. This ratio and other factors determine the employer's tax rate for the year.

As we near the end of the first quarter of 2026, states have finalized 2026 wage bases and issued tax rate notices to employers. Here are some practical tips and reminders to help you stay on top of your SUI tax responsibilities:

1. Check for new wage bases and rates

Make sure you know the 2026 wage base and your assigned tax rate for each state where you have employees. If your payroll system isn't updated, you could end up overpaying or underpaying.

2. Confirm your unemployment account status

If you're hiring in new states or have remote workers, double-check that you're registered for a SUI tax account in those places.



3. Confirm set-up for other contributions

New states are implementing programs for paid family medical leave (PFML) or worker's compensation that require contributions from employers and/or employees. These taxes may be paid and reported separately from SUI, and employers could be assessed contributions, penalties, and interest if the taxes are not withheld (in the case of an employee contribution), reported, and deposited.

4. Update your payroll software

Don't forget to enter in the new rates and wage bases into your payroll system. Check reports from your third party payroll provider to confirm updates have been made.

5. Track employee work locations

With remote work on the rise, employees might be working from states you haven't dealt with before. Review where everyone is working and confirm you're set up to handle SUI tax for those states.

6. Review your experience factors

Your SUI tax rate can change based on your company's history with unemployment claims. States send out notices with your new rate—take a look, and if something seems off, you may be able to appeal. Some states allow an employee to make voluntary contributions to reduce their tax rate. Be aware of the strict deadlines for appeals and voluntary contributions.

7. Prepare for quarterly reporting

Quarterly filings are coming up fast. Gather your wage data and mark your calendar for each state's deadlines.

8. Watch for legislative changes

States sometimes tweak their unemployment laws, so keep an eye out for updates. Signing up for state agency newsletters or alerts can help you stay informed.

State unemployment tax is an important part of payroll compliance. By checking rates, updating systems, and keeping tabs on where your employees are working, you'll set yourself up for a smooth year. Staying proactive means fewer headaches and more accurate payroll all around.

Federal updates



National Taxpayer Advocate annual report to Congress

On January 28, 2026, the National Taxpayer Advocate (NTA) issued their [findings](#) of the primary challenges and issues with the Internal Revenue Service (IRS) in 2025 and anticipated challenges for the 2026 filing season.

Unsurprisingly, many of the challenges and areas of improvement noted in the report relate to the One Big Beautiful Bill Act (OBBBA). The complexities of facilitating the provisions of the OBBBA, which was enacted in the middle of the year (July 4, 2025), highlighted deficiencies in personnel and technology.

In a 2025 report, the NTA reported net IRS staffing reductions of 25% between January 2025 and June 2025. The current report shows that IRS workforce experienced an additional reduction of 2% through December 18, 2025, for a net workforce reduction of 27% in 2025. The reduction eliminated the office of transformation and strategy and the department of online services, and the direct file division was cut from 26 to 3 employees. These cuts hinder the IRS's ability to implement the NTA recommendations for improving electronic filing accessibility and accuracy.

Other items of concern addressed in the report include refund delays, taxpayer concern around the independence of the Independent Office of Appeals, and hardships related to withholding and credits from payments to non-U.S. taxpayers.

The report highlights 10 recommendations that were included in the 2026 Purple Book, including accountability for third party tax return preparers, requiring timely processing of claims for credits or refunds, and including reliance on a third party to e-file tax returns as reasonable cause for failure to file a timely return.

Status of ERC claim processing

IRS officials notified the U.S. Government Accountability Office ([GAO](#)) that, as of the end of 2025, the IRS has closed all ERC claims, other than about 41,000 that are either under audit or appeal. However, GAO noted that the IRS did not publicly communicate this or define what it considers to be a “closed” claim. As of June 2025, approximately 5 million ERC claims were processed with about \$283 billion in claims paid, which is more than triple the original CBO cost estimates.

In response to a request from Congress, the GAO prepared a report presenting lessons that can be learned from the ERC’s design and administration for future emergency relief programs. The report examines actions the IRS can take in the future, such as electronic return filing, better communication with taxpayers, and a comprehensive plan to manage fraud. Calculating, claiming, and receiving an ERC was a painful process for many employers that the government is working towards not repeating.

New FAQ for Qualified Overtime compensation

[Fact Sheet 2026-01](#), released January 23, 2026, simplifies the detailed guidance to employees in [Notice 2025-69](#) regarding the application of the deduction for qualified overtime compensation under OBBBA. The highlights include determining if the individual is covered by the Federal Labor Standards Act (FLSA), noting that an employee must have a Social Security Number to claim the deduction, and how the employee should calculate their qualified overtime compensation if it is not provided by their employer.

Final Form W-2 instructions released

The Internal Revenue Service released the final 2026 Form W-2, *Wage and Tax Statement*, instructions with a few notable changes from 2025. Most changes resulted from enacting the provisions of OBBBA, including instructions for: cash tips reporting to support the employee’s qualified tips deduction, qualified overtime compensation reporting to support the employee’s overtime compensation deduction, and employer contributions to a section 128 Trump account of an employee or employee’s dependent. The 2026 Form W-2 bifurcates Box 14 into 14a for general items and 14b for Treasury Tipped Occupation Codes. The three new box 12 codes (TP for qualified tips, TT for qualified overtime compensation, and TA for employer contributions to a Trump account) are included in the instructions.

OBBBA also raised the wage reporting threshold to \$2,000 when no federal taxes are withheld from \$600.

As prescribed in Revenue Ruling 2025-4, I.R.B. 758, and Notice 2026-6, employee and (voluntary) employer contributions to state programs providing wage replacement for workers that must take time off for various personal and family health reasons should be included as wages on Form W-2.

The form instructions report that the filing due date for calendar year 2026 Forms W-2 will be February 1, 2027, because the statutory deadline of the last day of the month following the end of the calendar year (January 31), falls on a weekend.

Draft Form 941-X instructions issued

The [draft](#) instructions for Form 941-X, *Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund*, indicate that the final version of Form 941-X will be released in April 2026. Updates from the 2025 Form 941-X instructions include:

- Guidance for correcting federal income tax withheld – The instructions remind employers that income tax withholding may only be corrected in the same calendar year unless there was an administrative error. This reminder is included in the context of an influx of employees providing updated Forms W-4, *Employee's Withholding Certificate*, because of the OBBBA deductions for qualified tips and overtime compensation. An employer should apply Form W-4 when it is provided by the employee, which may result in a change in calculating income tax withholding.
- Aggregate return filer disclosure – Form 941-X will include a section called Aggregate Return Filers Only, which requires an aggregate filer to identify their classification. Classifications include pay agents (Section 3504 agent) and certified professional employer organizations.
- Limitation on employee retention credit corrections – the instructions remind employers that OBBBA disallows claims for the third and fourth quarters of 2021 if filed after January 31, 2024. OBBBA also extended the period of assessment for these periods to six years after the credit was claimed.

Final Form W-2c issued

The IRS finalized [Form W-2c](#), *Corrected Wage and Tax Statement*. There are no notable changes to the draft form, but the form [instructions](#) provide details regarding completing the form to account for OBBBA reporting requirements.

H-1B Visa application period

Employers looking to obtain an H-1B nonimmigrant visa for FY 2027 may apply for the visa between noon on March 4 and noon on March 19, 2026, via the H-1B Electronic Registration Process [page](#). The cap on H-1B visas is 65,000 and 20,000 for the advanced degree exceptions. Unlike prior years, employees in higher-skilled and higher-paid jobs will be prioritized. Also, pursuant to the September 19, 2025, [proclamation](#), certain applications will require a \$100,000 payment to obtain the visa.

State and local updates



Arizona

On February 12, 2026, Arizona Governor Katie Hobbs vetoed the [second bill](#) from Arizona lawmakers trying to determine which provisions of the current federal law that should be adopted. The Governor provided her [requests](#) for provisions to adopt and reject in 2025 and directed the Arizona Department of Revenue to prepare 2025 income tax forms that reflect these positions. As of the beginning of the 2026 filing season, Arizona has not adopted any provisions of OBBBA and, as of February 15, 2026, no legislation has been signed into law that supports these forms. Certain lawmakers say that a significant number of Arizona filers will need to amend their 2025 income tax returns for updates to Arizona law if legislation supporting these returns cannot be agreed upon.

Arizona is not alone in the state rush to adopt or reject OBBBA. Notably, the DC Income and Franchise tax Conformity and Revision Temporary Amendment Act of 2025 is in limbo, as detailed in the article below.

While some provisions of OBBBA generally do not affect employers in 2025 because penalties are waived for not reporting qualified overtime compensation and tips, other provisions, such as Trump accounts and permanence of certain parts of the Tax Cuts and Jobs Act of 2017 may affect employers.

Colorado

Colorado adopted several rules that apply to the Colorado Revised Statutes related to income tax withholding, effective March 2, 2026. To note:

- [Rule 39-22-604-1](#) codifies and clarifies numerous employer obligations, such as how to register and deregister for a withholding tax account, required periodic filings, and electronic filing mandates.
- [Rule 39-22-604-3](#) provides similar guidance for voluntary withholding on certain non-wage payments.
- [Rule 39-22-604-4](#) requires employers to issue Form DR 0995, *Notice of Federal and State Refundable Tax Credits*, to any employees who are issued an annual wage and tax statement.

Delaware

Effective January 28, 2026, under Delaware [SB 63](#), general construction contractors are jointly and severally liable for any worker misclassification penalties committed by subcontractors. The law amends the state's Workplace Fraud Act, which prohibits misclassifying employees as independent contractors.

District of Columbia

On February 18, 2026, President Trump signed into law House Resolution 142. The [bill](#) nullifies the DC Income and Franchise tax Conformity and Revision Temporary Amendment Act of 2025, which includes provisions to decouple from the OBBBA with respect to the credits for qualified overtime compensation and tips when calculating income taxes owed to the city.

In a letter to Congress, D.C. Chief Financial Officer Lee warns that this repeal may cause delays with the personal income tax filing season that began January 2026, forcing DC to extend deadlines into the fall and disrupt cash flow.

Indiana

Indiana Governor Mike Braun signed [Senate Bill No. 212](#) on January 29, 2026. The bill, introduced on January 6, 2026, adopts the Internal Revenue Code as of July 4, 2025. Therefore, the provisions of OBBBA are adopted.

Massachusetts

For taxable years beginning in 2026, Massachusetts monthly [exclusion](#) amounts for employer-provided parking, combined transit pass, and commuter highway vehicle benefits are limited to \$335. This is less than the federal \$340 exclusion from wages. While the federal exclusion for qualified bicycle commuting reimbursements was repealed with the OBBBA, Massachusetts law reinstates the \$20 exclusion beginning 2026.

Oregon

The District Court of Oregon issued preliminary approval of the settlement in the class action lawsuit, Lemons v. Walgreen Pharmacy Services Midwest, LLC.

The lawsuit alleges that Walgreens did not remit final pay amounts to fired employees in line with Oregon law. Walgreens' pharmacy services units in the Midwestern, Eastern, and Western regions of the U.S. agreed to pay \$2.5 million to settle the case, said Judge Michael W. Mosman of the US District Court for the District of Oregon in a Monday order. Judge Mosman agreed in July of 2024 to certify a group of fired workers who allege they didn't receive their last paycheck until at least six days after their final work day, despite the Oregon law that mandates that they receive that check "not later than the end of the first business day after the discharge or termination"

Many states have similar laws that require an employee to be paid within a specified number of days following the last day worked. This serves as a reminder for employers to comply with state and federal payroll laws surrounding final payout and dismissed employees.



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