



OBBBA AND OTHER RECENT TAX DEVELOPMENTS

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OBBBA AND OTHER RECENT TAX DEVELOPMENTS

- ❑ One Big Beautiful Bill Act
 - Individuals
 - Estate Tax
 - Business
 - Employers
 - Energy & Clean Vehicle Credits
- ❑ Selected other Tax Developments



OBBBA INDIVIDUAL TAXPAYERS

CURRENT RATES PERMANENTLY EXTENDED

□ Individuals:

- 10%, 12%, 22%, 24%, 32%, 35%, and 37%

□ Estates and Trusts:

- 10%, 24%, 35%, and 37%

STANDARD DEDUCTION

The standard deduction is increased as follows effective for tax years beginning in 2025, and adjusted annually for inflation beginning in tax years after 2025:

Filing Status	Standard Deduction for 2025	Standard Deduction for 2026
Married Filing Joint	\$31,500	\$32,200
Single	\$15,750	\$16,100
Head of Household	\$23,625	\$24,150
Married Filing Separate	\$15,750	\$16,100

PERSONAL EXEMPTION

- ❑ **Personal exemption deduction is permanently ended**
- ❑ **Temporary \$6,000 deduction for seniors:**
 - Tax years 2025 through 2028
 - Reduced by 6% of MAGI over \$75,000 (single) or \$150,000 (joint)
 - Taxpayer (and spouse if filing jointly) must have attained age 65 before the close of the tax year
 - Must have an SSN to claim

MISCELLANEOUS ITEMIZED DEDUCTIONS

- ❑ **Permanently disallows the deduction for the miscellaneous expenses that were subject to the 2% of AGI limitation**
- ❑ **Effective for tax years beginning after 2025, an itemized deduction for educator expenses is allowed**
 - Educator expenses are the same type of expenses that are allowed under IRC Section 62(a)(2)(D) as an above the line deduction subject to the \$250 (\$300 for 2025 as adjusted for inflation) per educator limit, except that as an itemized deduction, they are not subject to the \$250 (\$300 for 2025 as adjusted for inflation) per educator limit
 - The new law expands the list of expenses allowed as educator expenses

PEASE LIMITATION REPEALED & REPLACED (IRC § 68)

- ❑ Effective for tax years beginning after 2025, itemized deductions begin to phase-out when taxable income exceeds the dollar amount at which the 37% tax bracket begins (the highest tax bracket)
- ❑ The phase-out amount equals $\frac{2}{37}$ (5.40540541%) of the lesser of:
 - Itemized deductions otherwise allowable, or
 - The amount of taxable income (determined without reducing itemized deductions under this rule) that exceeds the dollar amount at which the 37% tax bracket begins with respect to the taxpayer

PEASE LIMITATION REPEALED & REPLACED (IRC § 68)

Miscellaneous:

- ❑ The phase-out does not apply when calculating the deduction for qualified business income (QBI)
- ❑ The limitation now applies to medical deductions, the deduction for investment interest, and the deduction for certain casualty or theft losses
- ❑ Estates and trusts are no longer excluded from the operation of Section 68

ALTERNATIVE MINIMUM TAX

- ❑ 2018 through 2025 AMT exemption amounts made permanent, adjusted annually for inflation, but resets the MFJ and surviving spouse exemption phaseout thresholds back to their 2018 amounts
- ❑ Exemption amounts:

FILING STATUS	2025 EXEMPTION	2026 EXEMPTION
Single; Head of Household	\$88,100	90,100
MFJ; surviving spouse	\$137,000	\$140,200
MFS	\$68,500	\$70,100
Estate & Trusts	\$30,700	\$31,400

ALTERNATIVE MINIMUM TAX

❑ Exemption phase-out threshold:

FILING STATUS	2025 PHASEOUT	2026 PHASEOUT
Single; Head of Household	\$626,350	\$500,000
MFJ; surviving spouse	\$1,252,700	\$1,000,000
MFS	\$626,350	\$500,000
Estate & Trusts	\$102,500	\$104,800

- ❑ The phaseout rate for higher-income taxpayers doubles from 25% to 50%
- ❑ Likely result is more taxpayers being subject to the AMT

HOME MORTGAGE INTEREST DEDUCTION

- ❑ **Permanently capped at \$750,000 (\$375,000 if married filing separately)**
- ❑ **Previously scheduled to increase to \$1 million in 2026**
- ❑ **Reinstates the provision to treat mortgage insurance premiums (PMI) as interest, which had expired for tax years after 2021**
 - The deduction for PMI begins to phase out when the taxpayer's adjusted gross income for the tax year exceeds \$100,000 (\$50,000 MFS)

SALT DEDUCTION

❏ Limit on deduction for state & local taxes:

TAX YEAR BEGINNING:	DEDUCTION LIMITATION:
2025	\$40,000
2026	\$40,400
2027	\$40,804
2028	\$41,212
2029	\$41,624
After 2029	\$10,000

Note: MFS limitations are half the above amounts

SALT DEDUCTION

- ❑ Deduction limit is reduced by 30% of the excess of modified adjusted gross income over the following thresholds (but, not below \$10,000):

TAX YEAR BEGINNING:	THRESHOLD AMOUNT:
2025	\$500,000
2026	\$505,000
2027	\$510,050
2028	\$515,151
2029	\$520,303
After 2029	\$10,000

Note: MFS limitations are half the above amounts

CHARITABLE CONTRIBUTIONS

- ❑ Beginning in 2026, taxpayers can deduct up to \$1,000 (\$2,000 MFJ) without itemizing
- ❑ Also, beginning in 2026 OBBBA places a new 0.5% floor on charitable contribution deductions for both itemizers and non-itemizers
- ❑ Deductions are allowed to the extent contributions exceed 0.5% of AGI
- ❑ Disallowed deductions may be carried forward
- ❑ OBBBA also makes permanent the 60% AGI limitation for cash contributions to public charities

DEDUCTION FOR TIPS

❑ For tax years beginning after 2024 and before 2029

❑ Amount:

- Qualified tips received
- Reported on statement furnished by employer*
- Reported by taxpayer on Form 4137

*or payee if recipient is not an employee

DEDUCTION FOR TIPS

□ Limits:

- \$25,000 per tax year
- Reduced by \$100 for each \$1,000 (10%) by which an employee's MAGI exceeds \$150,000 (\$300,000 for MFJ)
- If self-employed, deduction is limited to net profit from the taxpayer's trade or business that received the tips

DEDUCTION FOR TIPS

❏ Miscellaneous:

- Qualified tips means cash tips (including credit card transactions) received by an individual in an occupation which customarily and regularly received tips on or before December 31, 2024
- Qualified tips do not include amounts received in a specified service trade or business (same definition as used for the qualified business income deduction)
- Taxpayers do not have to itemize to claim the deduction
- Payors subject to the information return reporting requirements must separately account for the amount of qualified tips paid to the payee
- Tips are still subject to Social Security and Medicare taxes

DEDUCTION FOR TIPS

□ Proposed Regulation REG-110032-25:

- Lists close to 70 occupations that “customarily and regularly” received tips
- Includes a Treasury Tipped Occupation Code (TTOC) for each occupation
- Starting with the 2026, tax year, an employee’s qualifying tips must be reported on their Form W-2, box 12, using code “TP,” and the TTOC must be reported in box 14b

DEDUCTION FOR TIPS

□ Proposed Regulation REG-110032-25 – con't:

- Cash tips include any form of payment that is readily exchangeable for cash
 - ❖ Cash
 - ❖ Electronic payments by credit or debit card
 - ❖ Gift cards
 - ❖ Casino chips
 - ❖ But, not event tickets, meals, services, or other assets not exchangeable for a fixed amount of cash (e.g., most digital assets)

Prop. Reg. § 1.224-1(c)(2)

DEDUCTION FOR TIPS

❏ Proposed Regulation REG-110032-25 – con't:

- Only tips that are paid voluntarily qualify for the tips deduction
 - ❖ Services charges, automatic gratuities, and other amount automatically added to a customer's bill don't qualify even if the amounts are distributed to the employees
 - ❖ But, if the customer has the option of modifying or disregarding the amount added to the bill, then it is not mandatory

Prop. Reg. § 1.224-1(c)(3)

DEDUCTION FOR TIPS

□ Proposed Regulation REG-110032-25 – con't:

- Self-employed taxpayers can claim the tips deduction
 - ❖ Must be reported on Form 1099-MISC, -NEC, or –K or by the taxpayer on Form 4137, Social Security and Medicare Tax on Unreported Tip Income
 - ❖ Not eligible if IRC § 199A specified service trade or business (SSTB)
 - E.g., Performing artist, such as a comedian or musician
 - However, a piano bar player working as an employee for a hotel would qualify

DEDUCTION FOR QUALIFIED OVERTIME PAY

- ❑ **For tax years beginning after 2024 and before 2029**
- ❑ **Amount:**
 - Qualified overtime compensation
 - Included in statements furnished to taxpayer by employer
- ❑ **“Qualified overtime compensation” means overtime pay required under section 7 of the Fair Labor Standards Act**
 - The deduction is limited to qualified overtime paid to non-exempt employees under the FLSA who work for more than forty (40) hours per week at a rate not less than time and half of their regular rate of pay

DEDUCTION FOR QUALIFIED OVERTIME PAY

❑ Limits:

- \$12,500 (\$25,000 for MFJ)
- Begins to phase out by \$100 for each \$1,000 by which MAGI exceeds \$150,000 (\$300,000 for MFJ)

❑ Miscellaneous:

- Not necessary to itemize to claim the deduction
- Overtime must be separately reported on employee's Form W-2 or a 1099
- Employee must have an SSN on their return

RELIEF TO EMPLOYERS REPORTING TIP AND OVERTIME PAY

□ Background:

- IRS previously announced that it would not be updating its 2025 Forms W-2, 1099-NEC, 1099-MISC, or 1099-K
- However, the IRS released draft versions of these forms for the 2026 taxable year containing new lines for tips and overtime reporting

□ Notice 2025-62:

- Provides that for 2025 employers and other payors will not face penalties for failing to provide a separate accounting of any amounts reasonably designated as overtime compensation, cash tips, or the occupation of the person receiving cash tips
- Encourages employers and other payors to provide employees and other payees with a separate accounting of tips, overtime compensation, and tipped occupation codes

GUIDANCE TO EMPLOYEES REPORTING TIP AND OVERTIME PAY

Notice 2025-69

- ❑ **Employees may use any of the following to calculate qualified tips:**
 - Social Security tips reported on their Form W-2, box 7;
 - Tips reported by the employee to the employer on all Forms 4070, Employee's Report of Tips to Employer (or any similar substitute form);
 - Cash tips reported on Form W-2, box 14 (or on a separate statement) if the employer voluntarily reports this information; or
 - The amount listed on line 4 of Form 4137, Social Security and Medicare Tax On Unreported Tip Income, filed with the employee's 2025 income tax return

GUIDANCE TO EMPLOYEES REPORTING TIP AND OVERTIME PAY

Notice 2025-69

❑ **Self-employed taxpayers can calculate qualified tips as follows:**

- A separate statement provided by a 1099 issuer (because 2025 Forms 1099 were not modified to separately report qualified tips); or
- Using earning statements or other documentation such as receipts, point-of-sale system reports, daily tip logs, third-party settlement organization records, or other documentary evidence, but only for those amounts that are actually included on a 1099 and just not separately identified as tips

GUIDANCE TO EMPLOYEES REPORTING TIP AND OVERTIME PAY

Notice 2025-69

- ❑ For the 2025 tax year, the IRS will treat all employees who receive tips as if the tips were received in a non-SSTB
- ❑ Notice 2025-69 similarly provides simple, alternate methods of calculating qualified overtime for those taxpayers whose employers do not provide a separate statement with Fair Labor Standards Act (FLSA) qualified overtime for 2025

DEDUCTION FOR CAR LOAN INTEREST

- ❑ **For tax years beginning after 2024 and before 2029**
- ❑ **Amount:**
 - Qualified passenger vehicle loan interest
- ❑ **Limits:**
 - \$10,000
 - Begins to phase out when MAGI exceeds \$100,000 (\$200,000 MFJ)
- ❑ **Do not have to itemize to claim the deduction**

DEDUCTION FOR CAR LOAN INTEREST

❑ “Qualified passenger vehicle loan interest”

- Interest paid or accrued
- On indebtedness incurred after 2024
- For purchase of, or secured by first lien on,
- “Applicable passenger vehicle”
- For personal use

DEDUCTION FOR CAR LOAN INTEREST

❑ “Applicable passenger vehicle”

- New vehicles only
- Manufactured primarily for use on public streets, roads, and highways
- At least 2 wheels
- Car, minivan, van, sport utility vehicle, pickup truck, or motorcycle
- Treated as a motor vehicle for purposes of Title II of the Clean Air Act
- Gross vehicle weight rating of less than 14,000 pounds
- Final assembly occurs within the U.S.

DEDUCTION FOR CAR LOAN INTEREST

☐ Notice 2025-57:

- Lenders must provide Form 1098-VLI if the taxpayer pays at least \$600 in qualifying interest during the calendar year
- But for 2025 only, lenders can provide a statement via:
 - An online portal;
 - A regular monthly statement;
 - An annual statement; or
 - Any similar means

DEDUCTION FOR CAR LOAN INTEREST

❏ Proposed regs (REG-113515-25), issued December 31, 2025:

- Only an individual, decedent's estate, nongrantor trust, or disregarded entity (e.g., nongrantor trust or SMLLC) owned by one of these taxpayers can claim the deduction
- The personal use requirement is met if at the time of purchase the taxpayer estimates that the vehicle will be used more than 50% of the time for personal use
 - ❖ Taxpayers do not have to reevaluate the personal use requirement in subsequent years
 - ❖ For disregarded entities the determination is made at the owner level
 - ❖ For estates and trusts this is determined based on the expected use by the heirs or beneficiaries

DEDUCTION FOR CAR LOAN INTEREST

□ Proposed regs – con't.

- A taxpayer that uses a vehicle partially for business use can choose to deduct the interest as a business expense
 - ❖ But, must reduce the auto loan interest deduction claimed on Schedule 1-A by the amount of business interest claimed
- The \$10,000 limit applies per return, so:
 - ❖ MFJ filers are limited to a \$10,000 deduction
 - ❖ Taxpayers who file MFS are entitled to up to \$10,000 per spouse

DEDUCTION FOR CAR LOAN INTEREST

❏ Proposed regs – con't.

- Interest attributable to amounts directly related to the purchase of the vehicle (e.g., vehicle service plans, extended warranties, sales taxes, and vehicle-related fees) qualifies for the deduction
- Although interest paid on refinanced loans qualifies for the deduction, the deduction is limited to interest paid on the outstanding balance of the refinanced loan as of the date of the refinancing

NEW DRAFT SCHEDULE 1-A

Schedule 1-A, “Additional Deductions”

- ❑ **Used to allow taxpayers to claim deductions for:**
 - Qualified tips
 - Overtime pay
 - Car loan interest
 - The new deduction for seniors
- ❑ **Also used to calculate MAGI for each deduction**
- ❑ **Once calculated, the amounts are carried over to Form 1040**

GAMBLING LOSSES

- ❑ The TCJA's rule limiting gambling losses to gambling gains is made permanent
- ❑ Starting in 2026, the deduction for gambling losses is limited to 90% of gambling gains

MOVING EXPENSES

- ❑ The deduction for moving expenses is permanently repealed
- ❑ Any employer reimbursement for moving costs is fully taxed as income
- ❑ Exceptions:
 - Active-duty military members moving under orders
 - Certain intelligence community members moving pursuant to a change in assignment

DISCHARGE OF STUDENT LOAN DEBT

- ❑ **New exclusion for income arising from student loans discharged on account of the death or permanent disability of the student**
- ❑ **Begins in 2026**
- ❑ **Must include SSN on tax return**
- ❑ **Special rules apply for student loans forgiven under ARPA during 2021-2025**

CHILD TAX CREDIT

Effective for 2025:

- Increased to \$2,200 per qualifying child under age 17
- After 2025, adjusted annually for inflation
- Increased phase-outs under TCJA also made permanent
- Child and at least one parent must have an SSN
- Omission of a correct SSN treated as a mathematical or clerical error that the IRS can assess

CHILD & DEPENDENT CARE TAX CREDIT

- ❑ **Generally, daycare expenses that allow the taxpayer to work or look for work**
 - Credit rate X qualifying expenses up to \$3,000 for 1 dependent or \$6,000 for 2 or more
 - Credit rate
 - 35% if AGI is \$15,000 or less
 - Gradually reduced until it reaches 20% when AGI exceeds \$43,000

CHILD & DEPENDENT CARE TAX CREDIT

❏ OBBBA changes beginning in 2026:

- Increases credit rate:
 - 50% if AGI is \$15,000 or less
 - Gradually reduced until it reaches 35% when AGI exceeds 75,000 (\$150,000 MFJ)
 - Gradually reduced further until it reaches 20% when AGI exceeds 103,000 (\$206,000 MFJ)
- Increases maximum credit:
 - From \$1,050 to \$1,500 for 1 dependent
 - From \$2,100 to \$3,000 for more than 1 dependent
- Increases the exclusion for employer-sponsored childcare from \$5,000 to \$7,500 per taxpayer (\$3,750 for married filing separate)

ADOPTION CREDIT

❑ 2025:

- 100% of adoption expenses up to \$17,280
- Full credit available regardless of expenses for special needs children
- Phases out between AGI of \$259,190 and \$299,190

❑ OBBBA:

- Enhanced to include a refundable portion of up to \$5,000 per child
- Indexed for inflation
- Unused amount of non-refundable portion eligible for a 5-year carryforward

529 PLANS

- ❑ After July 4, 2025, expands the definition of qualified education expenses for K-12 beyond only tuition to also include books, materials, testing fees, dual enrollment fees, educational therapies and tutoring costs
- ❑ Applies to K-12 attendance or enrollment at a public, private or religious elementary or secondary school
- ❑ 529 funds can now also be used on qualified postsecondary credentialing expenses if the beneficiary is enrolled in a recognized postsecondary credential program
- ❑ Beginning January 1, 2026, the total limit for all K-12 expenses will rise to \$20,000 per year (from \$10,000)
- ❑ Ability to make rollovers from 529 accounts to ABLE accounts made permanent

TRUMP ACCOUNTS (SECTION 530A)

❑ **Effective January 1, 2026**

❑ **What is it?**

- Tax-advantaged savings account similar to an IRA
- Administered by a bank or similar financial institution
- Overseen by the Dept. of Treasury

TRUMP ACCOUNTS

□ Opening an account:

- By a person (e.g., a parent or guardian) for a beneficiary under age 18
- Contributions may be made by parents, relatives, taxable entities, non-profits, and government entities
- Must be invested in a diversified fund that tracks an established index of U.S. equities
- Beneficiary must have an SSN

TRUMP ACCOUNTS

❑ **Contribution amounts:**

- \$5,000 annually
- Indexed for inflation
- Not deductible

❑ **Special rules for employers:**

- Can contribute up to \$2,500 annually
- Not includable in employee's income

❑ **Special rules for non-profits and governmental entities:**

- Not subject to \$5,000 limit
- Must be provided to all children within a qualified group (e.g., all children within a state, school district, educational institution, etc.)

❑ **No further contributions after beneficiary attains age 18**

TRUMP ACCOUNTS

□ Distributions:

- Not allowed before age 18
- Contributions and earnings grow tax-deferred
- Funds can be accessed at age 18
- Taxpayer contributions are after-tax, so the “investment in the contract” is not subject to tax when distributed
- Contributions by employers, non-profits, and governmental entities will be taxed when withdrawn

TRUMP ACCOUNTS

□ Distributions – con't.

- Withdrawals in excess of taxpayer contributions are taxed as ordinary income if used for qualified expenses
- Otherwise, distributions prior to age 59-1/2 may be subject to an additional 10% early withdrawal penalty unless due to disability or death
- Details on early withdrawal penalties and qualified expenses (e.g., higher education expenses, first-time home purchase up to \$10,000, or small business expenses) are pending further regulatory guidance

TRUMP ACCOUNTS

❏ Pilot program:

- IRC § 6434 – taxpayers can elect on behalf of an eligible child to have the IRS make a \$1,000 contribution to a Trump account
- “Eligible child” means born after December 31, 2024 and before January 1, 2029
- Must be “qualifying child” under IRC § 152(c) dependency test
- No prior election may have been made
- SSN is required for the child

TRUMP ACCOUNTS

□ Form 4547:

- Publication 590-A (2025) indicates that elections related to the Trump Savings Account will be made on Form 4547
- Draft of Form 4547 was released December 3, 2025

□ There are two possible elections:

- 1) Election to establish a Trump Account
- 2) Election to receive the \$1,000 Pilot contribution

TRUMP ACCOUNTS

□ Gift Tax:

- Section 529(c)(2) provides that contributions to 529 accounts “shall be treated as a completed gift to such beneficiary which is not a future interest in property”
- Qualifies contributions to a 529 account for the annual exclusion from gift tax and the GST annual exclusion
- Legislation enacting Trump accounts does not include similar language

TRUMP ACCOUNTS

□ Employer concerns:

- Need a separate written plan document?
- Are there nondiscrimination requirements as with Section 129?
 - ❖ Only employees with children can benefit from the employer's Trump account
 - ❖ Employees with children are more likely to be highly compensated
- Administrative costs
 - ❖ Is salary reduction available to reduce cost?
- Employer dollars count toward \$5,000
 - ❖ How to coordinate with employees?

Notice 2025-68

□ Guidance on establishing the account:

- An initial account for an eligible child can only be established by the Treasury Department after an authorized individual (e.g., legal guardian, parent, etc., referred to as the “responsible party”) makes an election
- The account can be established at the time the responsible party makes an election to accept the \$1,000 pilot program contribution or at any time prior to the calendar year in which the child turns 18
- The election to establish a Trump account will be made on IRS Form 4547, Trump Account Election(s) (yet to be released), or through an online tool or application
- Form 4547 can be filed with a taxpayer’s 2025 tax return
- Accounts cannot begin to take contributions until July 4, 2026

TRUMP ACCOUNTS

Notice 2025-68

❏ Managing the account

- The initial Trump account will be held in one or more financial institutions chosen by the Treasury Department
- Once a Trump account is established, the responsible party may make a qualified rollover contribution into another Trump account maintained by a bank or other qualified nonbank authorized to maintain IRA accounts (e.g., Fidelity, Vanguard, etc.)
- The entire account must be rolled over, i.e., partial rollovers are not permitted
- That means only one Trump account can be funded for an individual at any time

Notice 2025-68

❏ Investment of the account:

- Funds must be invested in a mutual fund or exchange-traded fund that:
 - ❖ tracks the returns of the S&P 500 stock market index or “any other index which is comprised of equity investments in primarily U.S. companies”;
 - ❖ doesn’t use borrowed money or debt (leverage);
 - ❖ doesn’t have annual fees or expenses of more than 0.1 percent of the balance of the investment in the fund; and
 - ❖ meets other criteria deemed appropriate by the Treasury secretary
- The onus is on the trustee of the account to monitor the investments and the amount of funds to ensure compliance with the rules

TRUMP ACCOUNTS

Notice 2025-68

□ Distributions, Rollovers, and Reporting:

- The funds in a Trump account can't be withdrawn or disbursed for any reason, even in the form of a hardship distribution, until the beneficiary of the account turns 18
- May be rolled over into a savings account for individuals with disabilities under Section 529A — an Achieving a Better Life Experience (ABLE) account — when the beneficiary turns 17
- If the beneficiary dies before reaching 18, the account will no longer be considered a Trump account, and the funds in the account will be includable as gross income for the taxpayer who receives possession of them
- Trump accounts are not subject to IRA reporting requirements under Section 408(i) before the beneficiary turns 18.
 - ❖ Instead, the accounts are subject to the reporting requirements under Section 530A(i)
 - ❖ Section 530A(i) requires reporting “in such manner as may be required by the Secretary”
- After the beneficiary turns 18, the account will be governed by traditional IRA rules



OBBBA ESTATE TAX

ESTATE AND GIFT TAX EXCLUSION

- ❑ Increased to \$15 million for estates of decedents dying and gifts made after December 31, 2025
- ❑ Adjusted annually for inflation after 2026



OBBBA BUSINESSES

QUALIFIED BUSINESS INCOME DEDUCTION

- ❑ **20% deduction for QBI under Section 199A made permanent**
 - House bill would have increased it to 23%
- ❑ **Effective 2026, phase-out range is increased from \$50,000 to \$100,000 for MFJ and from \$75,000 to \$150,000 for MFS:**

FILING STATUS	2025 THRESHOLD AMOUNT	2025 PHASEOUT AMOUNT
Married filing jointly	\$394,600	\$494,600
All other taxpayers	\$197,300	\$247,300

QUALIFIED BUSINESS INCOME DEDUCTION

- ❑ **The Section 199A deduction is 20% of the lesser of:**
 - Net qualified business income; or
 - Taxable income before the 199A deduction and after reduction for any net capital gains
- ❑ **OBBBA revises the computation of taxable income by excluding the Section 68 itemized deduction limitation**
- ❑ **Thus, any disallowed itemized deductions must be added back into taxable income in computing the Section 199A deduction**

QUALIFIED BUSINESS INCOME DEDUCTION

- ❑ **Effective for 2026, there is a new \$400 minimum deduction:**
 - For “applicable taxpayers” meaning those whose aggregate QBI from all “active qualified trades or businesses” is at least \$1,000
 - “Active qualified trades or businesses” means any trade or business in which the taxpayer materially participates

SECTION 179 EXPENSING

- ❑ Starting in 2025, the Section 179 deduction limit is \$2.5 million, adjusted annually for inflation
- ❑ The Section 179 investment limit is \$4 million, adjusted annually for inflation

Assets Placed in Service in Tax Years Beginning After:	Current Law Expensing Limitation	Current Law Phaseout Threshold	OBBBA Expensing Limitation	OBBBA Phaseout Threshold
December 31, 2024 (2025 Tax Year) (Rev. Proc. 2024-40; OBBBA §70306)	\$1,250,000	\$3,130,000	\$2,500,000	\$4,000,000

BONUS DEPRECIATION

- ❑ **Permanently extends 100% expensing for property acquired after January 19, 2025**
- ❑ **May elect the lower current percentage for property placed in service during the first tax year ending after January 19, 2025**
 - 40% (prior law limit)
 - 60% for longer production property

NEW CLASS OF BONUS DEPRECIATION ELIGIBLE PROPERTY

- ❑ **“Qualified production property”**
- ❑ **Placed in service after July 4, 2025**
- ❑ **Eligible for 100% expensing of its adjusted basis**
- ❑ **Prior law: depreciate over 39 years**

NEW CLASS OF BONUS DEPRECIATION ELIGIBLE PROPERTY

☐ “Qualified production property”

- A portion of nonresidential real property
- Used as an integral part of a qualified production activity placed in service in the U.S. or any possession of the U.S.
- Original use of the property must commence with the taxpayer
- Construction of the property must begin after January 19, 2025, and before January 1, 2029.
- Taxpayer must elect to expense the property under this provision
- Property must be placed in service before January 1, 2031

NEW CLASS OF BONUS DEPRECIATION ELIGIBLE PROPERTY

- ❑ **“Qualified production activity” means the manufacturing, production, or refining of a qualified product**
 - Must result in a substantial transformation of the property comprising the product
 - Does not include nonresidential real property which is used for offices, administrative services, lodging, parking, sales activities, research activities, software development or engineering activities, or similar functions
- ❑ **“Qualified product” means any tangible personal property**
 - Does not include food or beverages prepared in the same building as a retail establishment in which the property is sold (which excludes restaurants)
- ❑ **Depreciation recapture applies if taxpayer ceases to use the property as an integral part of a qualified production activity within 10 years of placing the property in service**

DOMESTIC RESEARCH EXPENDITURES

□ Two Incentives to invest in research:

- The ability to capitalize and amortize specified research or experimental expenditures (SREs) over five years (15 years if the research is performed outside the United States). (**I.R.C. §174**)
- The ability to claim an immediate credit for qualified research expenses. (**I.R.C. §41**)

Note: In the past, Section 174 permitted the immediate deduction of R&E expenditures. However, TCJA required taxpayers to amortize them for tax years beginning on or after January 1, 2022.

DOMESTIC RESEARCH EXPENDITURES

□ New IRC §174A:

- Permanently reinstates full expensing of domestic IRC §174 expenditures beginning in 2025
- Allows taxpayers to choose the period over which they may amortize domestic research expenditures
 - Must be at least 60 mos.
 - Must elect by extended due date of return

DOMESTIC RESEARCH EXPENDITURES

□ Rev. Proc. 2025-28

- Procedural rules regarding the elections and accounting method changes required as a result of OBBBA's repeal of mandatory amortization for domestic research expenses
- Essentially 4 separate elections
- None of the elections require the taxpayer to file Form 3115, Application for a Change in Accounting Method
- Instead, the taxpayer can simply attach a statement to their return containing the information required by the Revenue Procedure

DOMESTIC RESEARCH EXPENDITURES

□ Rev. Proc. 2025-28

1. Taxpayers with unamortized domestic research expenditures in taxable years prior to 2025 can elect to amortize them either in 2025 or over a two-year period in 2025 and 2026

Note:

The Revenue Procedure treats the deductions as accelerated amortization. This is significant, because for tax years after 2024 amortization is not included in adjusted taxable income for purposes of the business interest expense rules of IRC § 163(j), which increases the limit for business interest expense deductions.

DOMESTIC RESEARCH EXPENDITURES

□ Rev. Proc. 2025-28

2. Taxpayers with average gross receipts of \$31 million or less can:
 - a) Apply IRC § 174A retroactively to 2022 and amend their prior-year returns to expense their unamortized domestic research expenditures; or
 - b) Expense their unamortized domestic research expenditures on an original or superseding 2024 return

DOMESTIC RESEARCH EXPENDITURES

□ Rev. Proc. 2025-28

Notes re: Taxpayers with average gross receipts of \$31 million or less:

- *The election is made on each amended return or, in the case of a CPAR partnerships operating under the Centralized Partnership Audit Regime on an administrative adjustment request (AAR), for the 2022, 2023, or 2024 tax years*
- *This option is not available to tax shelters prohibited from using the cash method of accounting*
- *Solely for purposes of an original Federal income tax return filed on or before November 15, 2025, the small business taxpayer was deemed to have made the election if it deducted its domestic research expenditures on its original return and otherwise complied with the requirements of the Revenue Procedure*

DOMESTIC RESEARCH EXPENDITURES

□ Rev. Proc. 2025-28

3. For small taxpayers electing to amend their prior-year returns, OBBBA provides a limited window to make a retroactive IRC § 280C(c) election to claim a reduced research credit instead of reducing deductible research expenditures by the amount of any research credit claimed under IRC § 41

DOMESTIC RESEARCH EXPENDITURES

□ Rev. Proc. 2025-28

Notes re: Small Taxpayers making the IRC § 280C(c) election:

- *This election will usually be more valuable to taxpayers whose tax rate is greater than 21%, such as owners of flow-through entities, than claiming the full Research Credit and reducing deductible research expenditures by the amount of the credit*
- *A retroactive IRC § 280C(c) election must be made by the earlier of:*
 - *July 6, 2026; or*
 - *The due date for filing a refund claim (e.g., 3 years from the date the return was filed for the 2022 taxable year)*
- *In addition to attaching a statement to the amended return or AAR, the taxpayer must also file an amended Form 6765, Credit for Increasing Research Activities, with a caption: “FILED PURSUANT TO SECTION 4.03 OF REV. PROC. 2025-28”*

DOMESTIC RESEARCH EXPENDITURES

□ Rev. Proc. 2025-28

4. Notwithstanding the elimination of mandatory 5-year amortization of domestic research expenditures, taxpayers can still elect to amortize those expenditures over a period of their choosing (although, it must be at least 60 months)

Notes:

- *The election must be made by the extended due date of the taxpayer's income tax return for the year*
- *The election to amortize domestic research expenditures and the period selected by the taxpayer must be used for the tax year for which the election is made and all future tax years unless a change to a different method is made and approved by the IRS*

BUSINESS INTEREST EXPENSE LIMITATION

- ❑ **Under IRC §163(j), the deduction for business interest is limited to the sum of the following:**
 - Business interest income;
 - 30% of adjusted taxable income (ATI); and
 - Floorplan financing interest
- ❑ **Prior to January 1, 2022, ATI was calculated without regard to deductions for depreciation, amortization and depletion**
- ❑ **For tax years beginning after December 31, 2021, TCJA included depreciation, amortization and depletion in calculating ATI**

BUSINESS INTEREST EXPENSE LIMITATION

- ❑ In years when depreciation, amortization and depletion were excluded, ATI was higher, and therefore more business interest was deductible
- ❑ OBBBA reinstates the exclusion of depreciation, amortization and depletion for post-2024 tax years

BUSINESS INTEREST EXPENSE LIMITATION

- ❑ For tax years beginning after December 31, 2025, OBBBA also provides that the business interest limitation is calculated prior to the application of any interest capitalization provision, i.e.
 - Interest required to be charged to capital account; or
 - Interest which may be deducted or charged to capital account
- ❑ Thus, the amount of business interest expense allowed after taking into account the limitation is applied first to amounts capitalized and any remainder to amounts that would be deducted
- ❑ No business interest carried forward is treated as interest to which capitalization applies
- ❑ IRS issued fact sheet FS-2025-9 with FAQs on December 23, 2025

LIMITATION ON EXCESS BUSINESS LOSSES

- ❑ Under IRC §461(l), losses from trades or businesses of noncorporate taxpayers are limited if:**
 - Deductions exceed gross income and gains from the business, plus
 - A threshold amount (\$313,000 for 2025, or \$626,000 if MFJ)
- ❑ Any excess can be carried forward under the NOL carryover rules**
- ❑ OBBBA permanently extends this limitation**

INFORMATION REPORTING

- ❑ **OBBBA retroactively increases the Form 1099-K reporting threshold back to the pre-ARPA levels:**
 - \$20,000
 - 200 transactions
- ❑ **For payments made after 2025, the reporting thresholds for Forms 1099-NEC and 1099-MISC are increased from \$600 to \$2,000 (adjusted for inflation after 2026)**

INFORMATION REPORTING

- ❑ Forms W-2, 1099, 941, etc. will not be changed for the 2025 tax year to reflect the deductions for tips and overtime (News Release IR-2025-82)
- ❑ Drafts of Forms 1099-NEC, 1099-MISC and 1099-K for 2026 have been released

CHARITABLE CONTRIBUTIONS BY C CORPORATIONS

- ❑ **Beginning in 2026, C corporations are subject to a 1% floor on deductions for charitable contributions**
- ❑ **Resulting limitations:**
 - Allowed only to the extent contributions exceed 1% of the corporation's taxable income
 - Limited to 10% of the corporation's taxable income

QUALIFIED SMALL BUSINESS STOCK

Summary of changes	Prior law (stock acquired on or before July 4, 2025)	OBBBA (stock acquired after July 4, 2025)
Reduced required holding period	More than five years	At least three years
Tiered gain exclusion percentages	<ul style="list-style-type: none"> 100% for stock acquired after September 27, 2010 75% for stock acquired after February 17, 2009, and before September 28, 2010 50% for stock acquired before February 18, 2009 	<ul style="list-style-type: none"> 50% for stock held for three years 75% for stock held for four years 100% for stock held for five years or more
Increased cap on the gain exclusion	Greater of \$10 million (\$5 million for MFS) or 10 times the taxpayer's tax basis in the QSBS	Greater of \$15 million (\$7.5 million for MFS), adjusted for inflation beginning in 2027, or 10 times the taxpayer's tax basis in the QSBS
Increased gross assets limit	\$50 million	\$75 million (adjusted for inflation beginning in 2027)

Note: The portion of gain that remains taxable under the QSBS rules is subject to a 28% tax rate, rather than the standard 20% long-term capital gains rate. As a result, the effective tax rate is 14% for a 50% gain exclusion and 7% for a 75% gain exclusion, respectively (without considering the 3.8% net investment income tax).



OBBBA EMPLOYERS

BUSINESS MEALS

❑ TCJA created IRC §274(o)

- Eliminates the deduction for employer provided meals
- 50% deductible through 2025
- 100% disallowance beginning in 2026
- OBBBA did not defer the disallowance

BUSINESS MEALS

❑ OBBBA did create two exceptions:

- The meals are provided at a facility in which goods or services (including the use of facilities) are sold by the taxpayer in a bona fide transaction for an adequate and full consideration in money or money's worth
 - *e.g., meals provided to restaurant workers during their shifts*
- The meals are required by federal law to be provided to crew members of a commercial vessel
 - *Includes fishing vessels, certain fish processing facilities, and offshore oil rigs and gas platforms*

BUSINESS MEALS

Expense	Amount Deductible
Client entertainment (sports tickets, golf outings, etc.) Client meals not purchased separately from the entertainment	-0-%
Client meals directly related to a business meeting	50%
Meals for employees while traveling for business	50%
Meals provided for the convenience of the employer (employee meals in the office; office coffee, water & snacks)	50% through 2025; -0-% after 2025*
Holiday parties, company picnics & employee appreciation events	100%

*Subject to the exceptions for restaurants and commercial fishing vessels

EMPLOYER CREDIT FOR PAID FAMILY & MEDICAL LEAVE

❑ IRC §45S paid family & medical leave credit is permanently extended

- The birth or care of a child
- Adoption or foster care of a child
- Caring for a spouse, child, or parent with a serious health condition
- An employee's serious health condition that makes the employee unable to perform the functions of the position
- A qualifying exigency arising out of the fact that a spouse, child, or parent is a member of the U.S. Armed Services and is on covered active duty
- Caring for a service member with a serious injury or illness if the employee is the spouse, child, parent, or next of kin of the service member

EMPLOYER CREDIT FOR PAID FAMILY & MEDICAL LEAVE

❏ Calculation:

- 12.5% of wages paid to employees on leave
- For up to a 12-week period
- Increased by 0.25%, up to 25%, for each percentage point wages paid exceed 50% of normal wages
- No credit if wages paid are less than 50% of normal wages

EMPLOYER CREDIT FOR PAID FAMILY & MEDICAL LEAVE

❏ Calculation – con't.

- Qualifying employee
 - Minimum service requirement reduced from 1 year to 6 mos.
 - New minimum 20-hour-per-week work requirement
 - Paid less than \$96,000 (in 2025)
- Written policy required
 - At least two weeks of leave for full-time employees
 - Reduced *pro rata* for part-time employees
- Mandated state or local government leave not counted when calculating the credit

EMPLOYER CREDIT FOR PAID FAMILY & MEDICAL LEAVE

❑ New alternative calculation:

- For tax years beginning after December 31, 2025
- Based on premiums paid for insurance policies providing compensation for the leave, instead of the wages paid
- Determined without regard to whether any employees are actually on leave
- Can elect whether to use the alternative calculation on an annual basis

EMPLOYER-PROVIDED CHILD CARE CREDIT

- ❑ **Employer credit for qualified childcare facility and resource and referral expenditures**
- ❑ **Credit is increased:**
 - From 25% to 40%
 - 50% for “eligible small businesses”
- ❑ **Credit limit is increased:**
 - From \$150,000 to \$500,000
 - \$600,000 for “eligible small businesses”
 - Adjusted annually for inflation

EMPLOYER-PROVIDED CHILD CARE CREDIT

❑ “Eligible small business”

- Average gross receipts do not exceed:
 - \$25 million
 - Over the previous 5-year period

❑ Effective for amounts paid or incurred after 2025

EMPLOYER PROVIDED DEPENDENT CARE

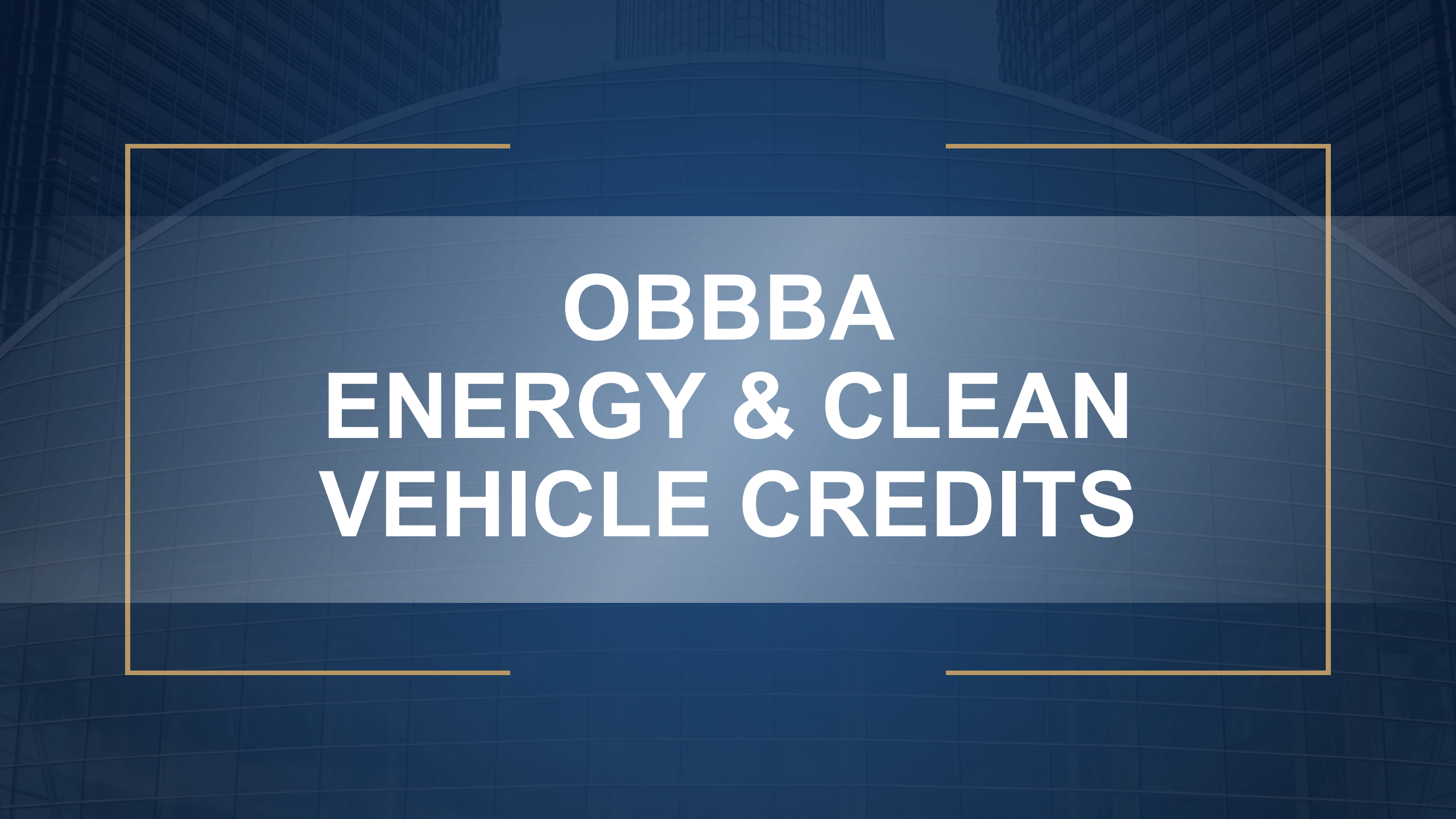
- Beginning with 2026, the exclusion for employer provided dependent care assistance is increased to \$3,750 (\$7,500 MFJ)

EMPLOYER PROVIDED EDUCATIONAL ASSISTANCE

- ❑ **The expansion of the \$5,250 education assistance program to include an employer's payment on an employee's student loan is made permanent**
 - *The \$5,250 limit is increased for inflation beginning in 2027*

TIP CREDIT FOR BEAUTY SERVICE BUSINESS

- ❑ A credit is allowed for the portion of employer Social Security and Medicare taxes paid on tips received by employees of food and beverage establishments
- ❑ Effective for tax years beginning after 2024, the credit is expanded to include the tipping of employees in the following service industries:
 - Barbering and hair care
 - Nail care
 - Esthetics
 - Body and spa treatments
- ❑ The new law amends the federal minimum wage in effect to apply to the current federal minimum wage of \$7.25 per hour rather than the minimum wage in effect on January 1, 2007



OBBBA ENERGY & CLEAN VEHICLE CREDITS

ENERGY & CLEAN VEHICLE CREDITS

Credit	Code Section	Expiration
Previously-Owned Clean Vehicle Credit	25E	Vehicles acquired after September 30, 2025
New Clean Vehicle Credit	30D	Vehicles acquired after September 30, 2025
Qualified Commercial Clean Vehicle Credit	45W	Vehicles acquired after September 30, 2025
Alternative Fuel Vehicle Refueling Property Credit	30C	Property placed in service after June 30, 2026
Energy Efficient Home Improvement Credit	25C	Property placed in service after December 31, 2025
Residential Clean Energy Credit	25D	Expenditures made after December 31, 2025
Energy Efficient Commercial Buildings Deduction	179D	Property construction that begins after June 30, 2026
Energy Efficient Home Credit	45L	Homes acquired after June 30, 2026



INDIVIDUALS

MATH ACT (H.R. 998) – SIGNED INTO LAW 11/25/2025

Internal Revenue Service Math and Taxpayer Help Act:

- Requires that the IRS provide specific information when it makes a tax return change due to a math or clerical error
- A notice sent by the IRS containing changes due to a math or clerical error must include:
 - ❑ A clear description of the error, including the type of error and the tax return line where the error was made;
 - ❑ An itemized computation of adjustments that are required to correct the error;
 - ❑ The phone number for the IRS's automated transcript service; and
 - ❑ The deadline for requesting an abatement of any penalties as a result of the error

DIGITAL ASSETS


Form 1099-DA, *Digital Asset Proceeds from Broker Transactions*:

- Beginning in 2025, brokers are required to report proceeds of digital asset sales
- Beginning in 2026, brokers are required to provide adjusted basis details
- IRS has released a fact sheet (FS-2025-6) on the new Form 1099-DA, which brokers use to report transactions in digital assets
 - ❑ Reminds tax professionals that for 2025 these statements do not include the basis of a taxpayer's digital asset transactions
 - ❑ Basis must be calculated before a 2025 tax return can be filed
 - ❑ Taxpayers may be required to recognize gain

DIGITAL ASSETS

Form 1099-DA (con't.)

- Notice 2024-56 waived the reporting and back-up withholding penalties for 2025
- Notice 2025-33 extends the relief for an additional year
- Draft instructions for the 2026 Form 1099-DA were released November 17, 2025



INDIVIDUAL TAX DEVELOPMENTSCASES

NOTICE OF DEFICIENCY DEADLINE IS NOT JURISDICTIONAL

Oquendo v. Commissioner, No. 24-1205 (6th Cir. 2025)

Issue

- Whether the deadline for filing a petition in the Tax Court challenging a notice of deficiency is a claims-processing rule subject to equitable tolling

Facts

- The IRS issued a notice of deficiency on May 30, 2023, informing Oquendo that she had until August 28 to contest the determinations in Tax Court
- Oquendo filed a petition for redetermination on November 1 claiming the notice was sent to her former address and that she didn't receive it until October 10

NOTICE OF DEFICIENCY DEADLINE IS NOT JURISDICTIONAL

***Boechler PC v. Commissioner*, 142 S. Ct. 1493 (2022)**

- Supreme Court held the deadline for filing a collection due process petition with the Tax Court isn't jurisdictional and that a procedural requirement is treated as jurisdictional only if Congress clearly states that it is
- Oquendo argued that *Boechler* should apply to her case

Sixth Circuit

- Held that there was no “clear statement” in Section 6213 to allow for jurisdictional treatment
- Joins the Second and Third circuits in determining that the deadline for filing notice of deficiency petitions in the Tax Court is a claims-processing rule subject to equitable tolling



BUSINESS

LIMITED PARTNER EXCEPTION TO SELF-EMPLOYMENT TAX

IRC §1402(a)(13):

- Enacted in 1977
- Excludes the distributive share of income or loss of a limited partner from SECA tax
- Exception for guaranteed payments
- Does not define “limited partner”
- Taxpayers and IRS have been at odds since

LIMITED PARTNER EXCEPTION TO SELF-EMPLOYMENT TAX

Soroban Capital Partners LP v. Commissioner, 161 T.C. 310 (2023):

- Addressed for the first time how IRC §1402(a)(13) applies to limited partners
- Siding with the IRS, the Tax Court concluded that
- State law classification is not controlling
- Congress intended “limited partner” to mean a passive investor
- Requires a functional analysis

LIMITED PARTNER EXCEPTION TO SELF-EMPLOYMENT TAX

Tax Court's holding has been appealed to 3 Circuits in different cases:

- First Circuit by Denham Capital Management LP
- Second Circuit by Soroban Capital Partners LP
- Fifth Circuit by Sirius Solutions LLLP



BUSINESS TAX DEVELOPMENTS CASES

CANCELED DEBT MAY NOT BE WORTHLESS

Kelly v. Commissioner, No. 23-70040 (9th Cir. 2025)

Facts:

- Between 2007 and 2010, taxpayer transferred millions of dollars between his business entities, characterizing them as loans
- On December 31, 2010, he cancelled many of these purported loans
- On his 2010 income tax return, he reported \$145 million of COD income but excluded it due to his personal insolvency
- He also reported a short-term capital loss of nearly \$87 million due to a nonbusiness bad debt write off, claiming that the discharged debt automatically or presumptively rendered it worthless

CANCELED DEBT MAY NOT BE WORTHLESS

To claim a nonbusiness bad-debt deduction under Section 166, the taxpayer must establish:

- (1) The debt is bona fide, 26 C.F.R. §1.166-1(c);
- (2) The taxpayer has an adjusted-tax basis in the debt sufficient to claim the deduction, 26 U.S.C. §166(b); and
- (3) The debt became “wholly worthless within the taxable year,” 26 C.F.R. §1.166-5(a)(2)

CANCELED DEBT MAY NOT BE WORTHLESS

Ninth Circuit Holding:

- Tax Court did not err in finding TP's debt was not worthless

Rationale:

- TP conceded the debts were not “wholly worthless,” referring to them instead as “near[ly] wholly worthless.”
- failed to show the debts were uncollectible
- Cannot presume worthlessness because COD income arose from the discharge

SALE OF LLC DUE TO TAX OBLIGATION OF ONE MEMBER

United States v. Driscoll, No. 3:18-cv-11762 (D.N.J. 2024)

Facts:

- Two-person dental practice owned 50-50 by the same two people who owned the building
- The real estate was owned as tenants in common
- One member failed to pay his taxes
- IRS sought to foreclose upon and sell both the real property and the dental practice in order to satisfy the tax debt

SALE OF LLC DUE TO TAX OBLIGATION OF ONE MEMBER

Law:

- *United States v. Rodgers*, 461 U.S. 677 (1983)

Factors to consider when weighing:

- Court's duty to balance the power to foreclose on a taxpayer's property when unpaid taxes exist
- How a judicial sale could negatively impact an innocent third party with an interest in the property and no outstanding tax liability

SALE OF LLC DUE TO TAX OBLIGATION OF ONE MEMBER

Court:

- Determined that the IRS could foreclose

Rationale:

- Real estate was owned as tenants in common, so either party could sell their interest



EMPLOYEE BENEFITS

SECURE 2.0 CATCH-UP CONTRIBUTIONS – AGE 60-63

- ❑ **For tax years after December 31, 2024, employees age 60-63 may increase the catch-up contributions to their employer-sponsored retirement plan to the greater of:**
 - a) 150% of the regular catch-up limit that applies to employees age 50 and older; or
 - b) \$10,000 (indexed beginning in 2026)

SECURE 2.0 CATCH-UP CONTRIBUTIONS – HCE’S

- **Beginning in 2026, catch-up contributions by HCE’s to 401(k), 403(b) and governmental 457(b) plans (but not SEP or SIMPLE plans) must be made on a ROTH basis (i.e., after-tax)**
 - ❑ HCE means compensation in excess of \$145,000
 - ❑ The \$145,000 threshold is indexed, and for 2026 the threshold is \$150,000
- **This provision is mandatory, meaning that an employer that offers a 401(k) plan without a ROTH option cannot accept catch-up contributions from their HCE’s**

SECURE 2.0 QUALIFIED LONG-TERM CARE DISTRIBUTIONS

- **Effective after December 29, 2025, SECURE 2.0 provides a new exception to the early withdrawal penalty for “qualified long-term care distributions”**
- **Must be to purchase long-term care insurance for:**
 - ☐ The employee;
 - ☐ The employee’s spouse (but only if a joint return is file); or
 - ☐ Certain members of the employee’s family
- **Limited to the lesser of:**
 - ☐ The amount actually paid;
 - ☐ 10% of the vested account balance; or
 - ☐ \$2,500 (inflation adjusted; e.g., \$2,600 for 2026 - - Notice 2025-67)

UNCASHED RETIREMENT BENEFITS

Rev. Rul. 2025-15

Fact Pattern:

- Employer processes a distribution to a plan participant, withholds tax pursuant to IRC §3404, remits withholding to Treasury, and sends the participant a check
- Participant fails to cash the check
- Employer sends another

Ruling:

- Employer not entitled to an adjustment or refund under IRC §6413 or 6414
- As long as second check is equal to or less than the first, no withholding is required
- If check is greater, then withholding is only required on the additional amount



ESTATE TAX

PORTABILITY ELECTION

Estate of Rowland v. Commissioner, T.C. Memo. 2025-76

Court Found Estate Didn't Make Portability Election:

- Late filing of decedent Billy Rowland's late wife's estate tax return
- Lack of required specificity and support for the values claimed in the return

Result:

- Unused portion of her personal exclusion could not be used by Rowland's estate

WIFE OF INTESTATE DECEDENT MUST DEFEND TAX SUIT

United States v. Estate of Whittemore, No. 1:24-CV-11670 (Dec. 16, 2025)

Facts:

- Mr. Whittemore died intestate in 2017 while residing in Middlesex County, Massachusetts survived by his wife
- All of his descendants were also descendants of Mrs. Whittemore
- No probate proceedings were opened for the Estate
- The Whittemores had unpaid federal income tax liabilities for tax years 2008 through 2014, totaling \$241,600.04

WIFE OF INTESTATE DECEDENT MUST DEFEND TAX SUIT

United States v. Estate of Whittemore, No. 1:24-CV-11670 (Dec. 16, 2025)

Motion for Judgment on the Pleadings by the Government:

- The government does not seek to administer the estate, distribute property, or intrude upon the jurisdiction of the Massachusetts Probate Court
- It seeks only to adjudicate and enforce federal tax liabilities
- Treating Mrs. Whittemore as the de facto representative for this limited purpose does not impose general fiduciary obligations or require the Court to resolve collateral probate matters

WIFE OF INTESTATE DECEDENT MUST DEFEND TAX SUIT

United States v. Estate of Whittemore, No. 1:24-CV-11670 (Dec. 16, 2025)

Court's Ruling:

- On this record, Mrs. Whittemore is the person who actually or constructively possesses and controls the decedent's property. See Mass. G.L. ch. 190B §3-203(a)
- She therefore qualifies as the Estate's de facto representative for purposes of federal tax enforcement
- The absence of a formal probate appointment does not preclude the Government from proceeding against her in that capacity

Take-away:

- The case highlights legal complexities when deceased individuals leave assets to surviving spouses who become de facto administrators, creating liability for unpaid federal debts, even without formal probate

The image features a dark blue background with a faint, low-angle photograph of a modern skyscraper's glass facade. A horizontal, semi-transparent white band is centered across the image. The word "MICHIGAN" is written in a bold, white, sans-serif font within this band. The entire composition is framed by a thin, light-colored rectangular border that is open at the top and bottom.

MICHIGAN

TEMPORARY TAX RELIEF FOR TIPPED AND HOURLY WORKERS

H.B. 4961- new Michigan law creating temporary state income tax deductions for tip income and overtime pay

- Applies for tax years 2026 through 2028
- “Qualified tips” received by employees in occupations that “customarily and regularly receive tips” will be deductible from Michigan’s 4.25% personal income tax
- The law also provides a state income tax exemption for overtime pay earned for hours worked beyond 40 in a workweek

NEW RESEARCH & DEVELOPMENT CREDIT IN 2025

Starting with R&D expenses incurred during the 2025 calendar year:

- P.A. 186 – provides a credit under the CIT
- P.A. 187 – provides a credit against withholding by flow-through entity employers not subject to the CIT or MBT
- Uses federal definition of “qualified research expenses” under IRC § 41(b)

NEW RESEARCH & DEVELOPMENT CREDIT IN 2025

Miscellaneous:

- Must incur Michigan R&D expenses in excess of a base amount
- Generally, a 3-year rolling average of annual Michigan R&D expenses
- Per taxpayer & per year limitations apply
- Total credits may not exceed \$100,000,000 annually
- Claimants are required to file a tentative claim (“credit application”) with Treasury
 - ❑ Must report actual (not estimated) expenses
 - ❑ Treasury has details on its website
- First statutory reporting deadline is April 1, 2026

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THANK YOU



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