

Overtime and Tips Under the One Big Beautiful Bill Act

Why This Matters for Employers

- *This affects how employers calculate, report, and communicate pay*

Presented by Stephen Kenney – Ogletree Deakins (Dallas, TX)

New federal tax deductions reshaping pay, benefits, and compliance (2025-2028)



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Overtime Gets an Overhaul: The One Big Beautiful Bill Act

How Overtime Deductions Work

Overtime Pay – Key Provisions

Deduction for **qualified overtime compensation**
(required FLSA overtime only)

Cap: **\$12,500 (single)/
\$25,000 (joint)**

Phase-out: **\$100
reduction per \$1,000**
over \$150,000
(single)/\$300,000 (joint)

Non-itemizer
eligibility

Reportable on **Form
W-2 (Box 12, Code
TT)**

Deduction requires a
valid **Social Security
number**

Note: *Phase-out reduces
deduction \$100 per
\$1,000 earned over the
threshold*

What Counts as Qualifying Overtime

- The federal overtime provisions are contained in the Fair Labor Standards Act (FLSA). Unless exempt, employees covered by the Act must receive overtime pay for hours worked over 40 in a workweek at a rate not less than time and one-half their regular rates of pay.

What May Partially Count as Qualifying Overtime

- State daily overtime requirements
- Collective bargaining agreements
- Employer Policy

FLSA and Non-FLSA Overtime Examples

- **Ex 1:** Non-exempt employees who work a company-recognized holiday receive “premium pay” at 1.5x their regular rate of pay. Unless this time is incurred after 40 hours in the workweek (because FLSA only recognizes OT after 40 hours), it is not considered “qualified overtime” and therefore not reportable.
- **Ex. 2:** A union employee’s regular rate of pay is \$40/hr. Their CBA overtime rate is \$80/hr ($\40×2). Their FLSA overtime rate is \$60 an hour ($\40×1.5). The employee worked 50 hours in a workweek, so 10 hours is FLSA overtime. Overtime pay is \$800 ($\80×10 hrs). Only \$600 (i.e., the premium or “half” portion in time-and-a-half) qualifies for the tax deduction and is reported by the employer.
- **Ex. 3:** A California employee’s work week includes 2 days of 9.5-hour shifts (1.5 hours OT both days), but their entire workweek does NOT exceed 40 hours. Those 3 OT hours DO NOT count as “qualified overtime” because FLSA does not recognize daily overtime.
- **Ex. 4:** A California employee works 3 days of 12.5-hour shifts during a holiday workweek, but their entire workweek is less than 40 hours. Their regular daily 1.5x and their 2x pay does not count as “qualified overtime” because the FLSA does not recognize daily overtime in any amount until the employee exceeds 40 hours in a workweek.
- **Ex. 5:** A California employee works 7 consecutive days of a workweek, but under 40 hours total. Their 1.5x OT pay for the first 8 hours on that 7th day was not considered “qualified overtime” because it did not exceed 40 hours in a week.
- **Ex 6:** A California employee works a total of 44 hours in a workweek – 3 days of 10-hour shifts (total 6 hours daily overtime) and 2 days of 7-hour shifts. Only 4 hours is considered “qualified overtime” because daily overtime is not required by FLSA overtime rules.

Non-FLSA Overtime/What Remains Taxable

- **Non-FLSA overtime**
- **Bonuses and shift differentials**
- **Mandatory service charges**

Information Reporting Requirements

- Interim reporting for 2025: no changes to Forms W-2
 - Reasonable method to approximate qualifying overtime?
 - Report on Form W-2 or separate statement?
 - Transition Rule forthcoming
- Form W-2 reporting for 2026 and beyond
 - Box 12, Code TT
- Incorrect information return penalties
 - Failure to File / Failure to Furnish - \$340 in 2026

2025 Form W-2 Reporting

c Employer's name, address, and ZIP code			3 Social security wages		4 Social security tax withheld	
			5 Medicare wages and tips		6 Medicare tax withheld	
			7 Social security tips		8 Allocated tips	
d Control number			9		10 Dependent care benefits	
e Employee's first name and initial		Last name		Suff.	11 Nonqualified plans	
					12a e d c c e	
					13 Statutory employee Retirement plan Third-party sick pay <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
					12b e d c c e	
					12c e d c c e	
f Employee's address and ZIP code			14 Other		12d	
					e d c c e	
15 State	Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name

2026 Form W-2 Reporting

		7 Social security tips		8 Allocated	
d Control number		9		10 Dependent	
e Employee's first name and initial		Last name		Suff.	
		11 Nonqualified plans		12a See instructions for box 12	
		13 Statutory employee Retirement plan Third-party sick pay		12b	
		14a Other		12c	
		14b Treasury tipped occupation code		12d	
f Employee's address and ZIP code					
15 State	Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax

Form **W-2** Wage and Tax Statement
Copy B—To Be Filed With Employee's FEDERAL Tax Return.
This information is being furnished to the Internal Revenue Service.

2026

Department of the Treasury—Internal Revenue Service

Withholding Practices (overtime)

- **2025:** Continue withholding income tax unless employee completes new Form W-4; overtime remains subject to FICA and state taxes
- **2026+:** Employees estimate overtime on **Form W-4**

2025 Form W-4 Deduction Worksheet

information about whether you qualify for the deductions on lines 1a, 1b, 1c, 3a, and 3b.

1


Deductions for qualified tips, overtime compensation, and qualified passenger vehicle loan interest.

a

Qualified tips. If your total income is less than \$150,000 (\$300,000 if married filing jointly), enter an estimate of your qualified tips (up to \$25,000)

1a

\$



b

Overtime compensation. If your total income is less than \$150,000 (\$300,000 if married filing jointly), enter an estimate of your qualified overtime compensation (up to \$12,500 (\$25,000 if married filing jointly) of the “and-a-half” portion of time-and-a-half compensation)

1b

\$

c

Qualified passenger vehicle loan interest. If your total income is less than \$100,000 (\$200,000 if married filing jointly), enter an estimate of your qualified passenger vehicle loan interest (up to \$10,000)

1c

\$

2

Add lines 1a, 1b, and 1c. Enter the result here

2

\$

3

Seniors age 65 or older. If your total income is less than \$75,000 (\$150,000 if married filing jointly):

a

Enter \$6,000 if you are age 65 or older before the end of the year

3a

\$

b

Enter \$6,000 if your spouse is age 65 or older before the end of the year and has a social security number valid for employment

3b


\$

2026 Form W-4 Deductions Worksheet

Step 4(b) — Deductions Worksheet *(Keep for your records.)*



See the Instructions for Schedule 1-A (Form 1040) for more information about whether you qualify for the deductions on lines 1a, 1b, 1c, 3a, and 3b.

1	Deductions for qualified tips, overtime compensation, and passenger vehicle loan interest.	
a	Qualified tips. If your total income is less than \$150,000 (\$300,000 if married filing jointly), enter an estimate of your qualified tips up to \$25,000	1a \$ <input type="text"/>
	b Qualified overtime compensation. If your total income is less than \$150,000 (\$300,000 if married filing jointly), enter an estimate of your qualified overtime compensation up to \$12,500 (\$25,000 if married filing jointly) of the "and-a-half" portion of time-and-a-half compensation	1b \$ <input type="text"/>
c	Qualified passenger vehicle loan interest. If your total income is less than \$100,000 (\$200,000 if married filing jointly), enter an estimate of your qualified passenger vehicle loan interest up to \$10,000	1c \$ <input type="text"/>
2	Add lines 1a, 1b, and 1c. Enter the result here	2 \$ <input type="text"/>
3	Seniors age 65 or older. If your total income is less than \$75,000 (\$150,000 if married filing jointly):	
a	Enter \$6,000 if you are age 65 or older before the end of the year	3a \$ <input type="text"/>
b	Enter \$6,000 if your spouse is age 65 or older before the end of the year and has a social security number valid for employment	3b \$ <input type="text"/>
4	Add lines 3a and 3b. Enter the result here	4 \$ <input type="text"/>
5	Enter an estimate of your student loan interest, deductible IRA contributions, educator expenses, alimony paid, and certain other adjustments from Schedule 1 (Form 1040), Part II. See Pub. 505 for more information	5 \$ <input type="text"/>

OT FILE

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The New Rules for Tipped Income

Separate deduction structure for customary tipping occupations with unique limits, codes, and compliance steps

Tips Under the One Big Beautiful Bill Act

- Separate deduction for **qualified tips** in customary occupations
- Cap: **\$25,000 per year**
- Phase-out: **\$100 reduction per \$1,000** over \$150,000 (single)/\$300,000 (joint)
- Applies to **cash, charge, and shared tips**
- Reported on **Form w-2**
- Deduction requires valid **Social Security number**
- **Non-itemizer eligibility**

Qualified Tips

- Voluntary amounts paid by customers ✓
- Cash and charge tips ✓
- Tip-sharing arrangements ✓
- Debit/gift cards and tokens (e.g., casino chips) ✓

Tips that Do Not Qualify

- Mandatory service charges ✖
- Automatic gratuities ✖
- Unreported tips ✖
- Tips related to illegal activity or adult entertainment ✖

Qualified Occupations

Proposed regulations identify 68 roles in these 8 categories

- Beverage & Food Service
- Entertainment & Events
- Hospitality & Guest Services
- Home Services
- Personal Services
- Personal Appearance & Wellness
- Recreation & Instruction
- Transportation & Delivery

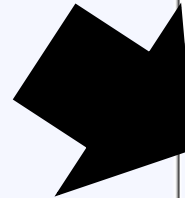
Proposed Rule - <https://www.federalregister.gov/documents/2025/09/22/2025-18278/occupations-that-customarily-and-regularly-received-tips-definition-of-qualified-tips>

Reporting Tips on Form W-2

- All cash tips received are wages unless under \$20/month
- Employees report tips by the **10th day of the following month**
- Employer report qualifying tips on **Form W-2**
 - Box 12, Code TP – Tip Amount
 - Box 14b – Occupation Code

2025 Form W-2 Reporting

c Employer's name, address, and ZIP code			3 Social security wages		4 Social security tax withheld	
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			7 Social security tips		8 Allocated tips	
d Control number			9		10 Dependent care benefits	
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2026 Form W-2 Reporting

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2026

Department of the Treasury—Internal Revenue Service

Withholding Practices (Tips)

- **2025: Maintain existing withholding practices, unless Employee completes new Form W-4**
- **2026+: New procedures coordinated with employee estimates on Form W-4**

2025 Form W-4 Deduction Worksheet

information about whether you qualify for the deductions on lines 1a, 1b, 1c, 3a, and 3b.

1

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1b \$

c

Qualified passenger vehicle loan interest. If your total income is less than \$100,000 (\$200,000 if married filing jointly), enter an estimate of your qualified passenger vehicle loan interest (up to \$10,000)

1c \$

2

Add lines 1a, 1b, and 1c. Enter the result here

2 \$

3

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Enter \$6,000 if you are age 65 or older before the end of the year

3a \$

b

Enter \$6,000 if your spouse is age 65 or older before the end of the year and has a social security number valid for employment

3b \$

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Step 4(b) – Deductions Worksheet *(Keep for your records.)*



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Expanded Tip Tax Credit

- Credit equal to the employer's share of **FICA taxes paid on reported tips**
- Previously limited to food & beverage; now includes:
 - Barbering and hair care
 - Nail care
 - Esthetics and spa treatments
- Applies when tipping is customary and documented

Example: A salon employer can now claim the FICA tip credit for tips reported by nail techs and estheticians.

- It's an **employer benefit** vs. employee deduction.

Compliance Steps: Make Actionable

- ☐ **Review list of tipped occupations**
- ☐ **Educate employees on new Form W-4**
- ☐ **Confirm FLSA classification accuracy**
- ☐ **Test payroll reporting systems**
- ☐ **Document all tips/overtime adjustments**

Best Practices

- Incorporate into payroll year end procedures
- Conduct mock 2025 W-2 test run
- Review the “tipped occupations” listing annually
- Confirm system readiness for 2026 reporting
- Coordinate between payroll and HR teams
- Maintain documentation to avoid penalties

Thank You!

*For questions, please contact me at
Stephen.Kenney@ogletree.com*



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