

# United States: IRS issues Transition Relief and 2025 Tips and Overtime Information Reporting Obligations

Tax News and Developments December 2025

## In brief

Treasury and the IRS recently issued two notices regarding the determination and reporting of qualified tips and qualified overtime for 2025. [Notice 2025-62](#) provides penalty relief for employers and payors who do not report qualified tips or qualified overtime on information returns for 2025, and [Notice 2025-69](#) provides guidance for taxpayers who receive overtime and tips on how to calculate the deductions for 2025 in the absence of information reporting from employers and payors.

## In more detail

The One, Big, Beautiful Bill Act (**OBBBA**), enacted July 4, 2025, creates new tax deductions for tax years 2025 through 2028 for recipients of qualified tips and qualified overtime compensation. The OBBBA amendments to the Code generally impose information reporting requirements, such as on Form W-2 or Form 1099, on the payors of qualified tips and overtime in order for the recipients of such compensation to be eligible to take the deductions. However, for tax year 2025, OBBBA includes transition relief that permits employers and payors to approximate and report qualified tips and qualified overtime by any reasonable method specified by the Secretary.

The IRS and Treasury have now provided guidance in the form of two notices – [Notice 2025-62](#) providing penalty relief for employers and payors who do not report qualified tips or qualified overtime on information returns for 2025, and [Notice 2025-69](#) providing guidance for taxpayers who receive overtime and tips on how to calculate the deductions for 2025 in the absence of information reporting from employers and payors.

## Background

Sections 224 and 225, enacted in OBBBA, provide for deductions for qualified tips and qualified overtime, respectively, for taxable years beginning after December 31, 2024, and ending for taxable years beginning after December 31, 2028. Broadly, qualified tips are defined as cash tips paid voluntarily to an individual (or business) engaged in an occupation that customarily and regularly received tips on or before December 31, 2024, and is not a “specified service trade or business,” such as an accounting, law, medical, consulting, performing arts, or financial services business. Service charges do not qualify, but cash tips include tips paid in cash or charged, as well as tips received under a tip-pooling arrangement. Qualified overtime is defined as overtime compensation paid as required under section 7 of the Fair Labor Standards Act (FLSA) that is in excess of the regular rate (as used in that section) at which such individual is employed. Qualified overtime compensation does not include any amount treated as a qualified tip.

To qualify for the deduction, the qualified tips or qualified overtime must be reported on statements furnished to the taxpayer (individual or business, as applicable), such as Form W-2 or Form 1099; for qualified tips, the deduction is also permitted to the extent the qualified tips are reported by the taxpayer on Form 4137. The OBBBA amends certain

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information reporting provisions<sup>1</sup> to require information reporting of qualified overtime compensation and qualified tips by employers and businesses on Forms W-2 or 1099 to align with this requirement, and provides a transition rule<sup>2</sup> for periods prior to January 1, 2026, under which persons required to report qualified tips or qualified overtime may approximate a separate accounting of amounts by any reasonable method specified by the Secretary. For qualified tips, information returns (e.g., Form W-2 or Form 1099) are required to include the amount of cash tips reported by the worker to the employer or payor, and the worker's qualifying occupation. For qualified overtime, information returns (e.g., Form W-2 or Form 1099) are required to include the qualified overtime compensation.

Given the reporting requirements for employers and payors, and the requirement that information returns include the qualified tips or qualified overtime in order for a taxpayer to be eligible for the deduction, businesses and individual taxpayers have had numerous questions as to how the OBBBA no tax on tips and no tax on overtime provisions apply. The need for guidance is compounded by the retroactive nature of the provisions (retroactive to amounts paid even before enactment of the bill), which means employers and taxpayers must track information back to January 1, 2025, despite not having sufficient instruction as to what to track or how to report it.

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## Notice 2025-62: No Reporting of Qualified Tips or Overtime Required for 2025

When the IRS announced in [IR-2025-82](#) that there would be no changes to the Form W-2, Form 1099, Form 941, or income tax withholding tables for FY 2025, and that employers and payroll providers and payors should continue using current 2025 procedures for reporting and withholding, this suggested to many that information reporting of qualified tips and qualified overtime would not be required for 2025. On November 5, 2025, IRS and Treasury released Notice 2025-62, essentially confirming that information reporting of tips and overtime is not required for 2025. Notice 2025-62 provides penalty relief from the new information reporting requirements for qualified tips and qualified overtime compensation to employers and other payors for not filing correct information returns and not providing correct payee statements to employees and other payees. The transition relief applies only for calendar year 2025 and only to the extent that the person required to make the return or statement otherwise files and provides a complete and correct return or statement.

The notice specifies that employers and payors will not be penalized under sections 6721 and 6722 for failing to separately report cash tips or qualified overtime compensation or for not including occupation codes for cash tips on Forms W-2 or 1099. Employers and payors are nonetheless encouraged to voluntarily provide supplemental details to assist employees and payees, particularly those in tipped occupations, in claiming deductions by providing occupation codes and separate accountings of cash tips. Similarly, employers and payors are encouraged to provide employees and payees with separate accountings of overtime compensation.

The notice makes clear that providing such information is not a requirement to receive the penalty relief provided in Notice 2025-62. In addition, for employers and payors that choose to make qualified tip and overtime information available, the notice provides that the information can be made available through an online portal, additional written statements provided to the employees or payees, other secure methods, or in the case of qualified overtime compensation, in Box 14 of the employee's 2025 Form W-2<sup>3</sup>.

Notice 2025-62 does not substantively address what will need to be reported in future years, but Notice 2025-69, providing guidance to recipients of tips and overtime, provides some hints.

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<sup>1</sup> Sections 6041, 6041A, 6050W and 6051

<sup>2</sup> It is worth noting that OBBBA section 70201(k), addressing the reporting requirements for qualified tips, provides a transition rule for 2025 only with respect to reporting required under sections 6041(a), 6041(d)(3), 6041A(a), 6041A(e)(3), 6050W(a), or 6050W(f)(2), but does not include section 6051 which deals with Forms W-2. OBBBA section 70202(h), addressing the reporting requirements for qualified overtime, provides a transition rule for 2025 with respect to reporting required under sections 6051(a)(19), 6041(a), or 6041(d)(4), where section 6041 deals with Form 1099 reporting.

<sup>3</sup> Notice 2025-69 indicates that employers may also use Box 14 of the 2025 Form W-2 to report the employee's cash tips.

## Notice 2025-69: Guidance for Tip and Overtime Recipients and a Definition of Qualified Overtime

On November 21, 2025, IRS and Treasury issued Notice 2025-69 which provides guidance for eligible workers regarding how to calculate the deduction for qualified tips or qualified overtime in the absence of having received a separate accounting from their employer or other payor on an information return (e.g., Form W-2 or Form 1099) for 2025. The notice indicates that the IRS is updating income tax forms and instructions for recipients of tips or overtime to use for the 2025 filing season with respect to claiming the qualified tips and qualified overtime deductions. The notice also affirmatively states that employers are not required to report qualified tips or overtime for 2025, while providing some clarity for employers and payors as to what will need to be tracked and reported going forward regarding qualified overtime.

### Qualified Overtime: Helpful Information for Employer Reporting

Notably, Notice 2025-69 provides guidance on what qualifies as “qualified overtime” for purposes of the deduction, defining qualified overtime as limited to the additional one-half times portion required by the FLSA. The notice confirms that an individual not eligible for federal overtime will generally not be paid overtime for this purpose, and that any state-required overtime, or overtime paid pursuant to a Collective Bargaining Agreement, that exceeds what is required by the FLSA, is not qualified overtime.

For example, state overtime paid for more than 8 hours of work in a day will not be treated as qualified overtime if it does not also exceed the FLSA required overtime for over 40 hours of work in a week. If the employee works only 40 hours in a week, but is paid state required overtime because ten of those forty hours were worked in one day, that overtime does not constitute qualified overtime for purposes of the section 225 deduction and, presumably, would not be required to be reported as qualified overtime by the payor once payor reporting obligations take effect. Similarly, any amounts paid in excess of the FLSA rate of overtime that an employer chooses to pay on FLSA overtime hours, such as at two times the regular rate instead of one and one-half times the regular rate, would not be qualified overtime for purposes of the deduction and, thus, not required to be reported.

Assuming only overtime required by the FLSA is qualified and required to be reported, employers will need to update their systems to track and separately account for FLSA-required overtime (i.e., the one-half times the regular rate) versus other types of premium payments, and there may be additional nuanced questions that need to be answered about who is eligible for FLSA overtime and how the minimum required FLSA is calculated. For example, currently, the determination of who is eligible for versus exempt from FLSA overtime is a complex factual determination and employers sometimes decide close cases in favor of eligibility and providing the overtime in order to avoid disputes with employees. Query whether the IRS will respect such determinations in close cases or whether the Department of Labor might provide additional guidance clarifying difficult eligibility issues. Making matters more complex, state law exemptions from overtime rules may apply differently.

There also are complex FLSA issues regarding what forms of compensation are included in the regular rate to which the 1.5 times overtime pay calculation is applied. For example, the FLSA includes all non-discretionary pay (commissions, piece-rate earnings, shift differentials, and promised bonuses) in regular pay, but does not include purely discretionary bonuses, expense reimbursements, and pay for time not worked (such as vacation, holiday or sick pay). Employers in some cases use a more straightforward regular pay determination. For example, bonuses might be included in regular pay even if arguably technically discretionary and paid time off may not be backed out. Will employers be required to determine regular rate of pay in a more nuanced fashion simply for tax reporting purposes?

The notice also clarifies that, although unusual, because the Internal Revenue Code and the FLSA use different definitions of “employee,” it is possible that a non-employee for tax purposes could be considered a covered employee under the FLSA. As such, businesses that have a worker that is considered an independent contractor for tax purposes but an employee for FLSA purposes are required to report, beginning in 2026, the qualified overtime on Form 1099.

## Qualified Tips: Transition Relief for Specified Trade or Businesses

Notice 2025-69 provides transition relief for tipped workers, both employees and non-employees, regarding the requirement that qualified tips must not be received in the course of a specified trade or business. Specifically, until after final regulations are published, the IRS will treat the worker as having received tips in the course of a trade or business that is not a specified trade or business if the worker is in an occupation that customarily and regularly received tips on or before December 31, 2024. Assuming reporting requirements apply starting for payments in 2026, employers will not have to report whether it is a specified trade or business on Form W-2 until after final regulations are published, and we expect revisions to the 2026 Form W-2 and instructions to address this<sup>4</sup>.

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## Action Steps for Employers and Payors

For 2025, employers and payors may want to consider communicating with workers regarding what they will be reporting and in what form, and how it compares to the information the worker needs to take a deduction. Employers and payors may also want to consider whether they can voluntarily provide any type of supplemental information to their workers to aid them in determining the amount of any deduction for qualified tips or overtime, noting that supplemental information can be provided in various ways, such as through an online portal, via the Form W-2, or via additional written statements.

For 2026 and forward, given the guidance provided in the notices, particularly the needed clarity on the definition of qualified overtime in Notice 2025-69, and in combination with the information found in the previously-released draft 2026 Forms W-2 and 1099, employers and payors should review their payroll and accounts payable systems to begin preparing for 2026 reporting. Employers and payors should continue monitoring for additional guidance, such as in the form of instructions, notices, or FAQs.

Employers should also keep track of any state law changes that mirror the federal deductions for qualified tips and overtime to determine whether any separate reporting or other obligation is imposed at the state level.

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## Looking Ahead and Open Questions

Employers and payors continue to need guidance regarding what and how to report for tips and overtime paid beginning on January 1, 2026, and will need the guidance as soon as possible so they can get systems in place, which will include testing any new information reporting requirements. The IRS has indicated it will issue further instructions for employers before the 2026 tax year. In the meantime, employers and payors may want to treat the 2025 information reporting season as a planning period to avoid compliance challenges going forward, to the extent they can do so with the guidance that has been issued thus far.

That said, open questions remain, and guidance is still needed around qualified overtime in particular. For example, employers will need guidance on whether their use of simplifying conventions as to eligibility for overtime, and regular rate of pay will be sufficient for information reporting purposes. While that determination would be within the purview of the IRS and Treasury, interpretations under the FLSA would be within the purview of the Department of Labor (“DOL”). Given the fact that the tax obligations may depend on the FLSA standards, the IRS and Treasury likely will need DOL input on some of the underlying issues. In the absence of clarifying guidance from DOL, employers may need guidance similar to that provided to employees under Notice 2025-69 which permits them to use any reasonable method in determining what constitutes qualified overtime for purposes of the reporting requirements.

Future guidance should address this and other open questions, including procedural questions for employers, payors, and payees. We are working with IRS and Treasury on these issues and welcome hearing about any comments or concerns that should be shared with the agencies.

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<sup>4</sup> The Draft 2026 Form W-2 includes new codes TP and TS for Box 12 that would require an employer to report whether cash tips were received in a specified trade or business.

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