



The One Big Beautiful Bill & ERC Update!

How does the One Big Beautiful Bill impact Payroll?

The Act extends or modifies several elements of the 2017 Tax Cuts and Jobs Act that were scheduled to expire at the end of 2025. Since you are already receiving this benefit, the main impact would be avoiding a negative change in January.

The Act includes a federal income tax deduction for both qualified tips and qualified overtime through 2028. At this point, you will not see the benefit on your paycheck. These deductions will become impactful when you complete your individual tax return. Please remember, this deduction is only applicable to Federal Income Tax. It is not a credit against Social Security, Medicare or State Income Tax.

Qualified overtime is limited to \$12,500 (or \$25,000 for married filing jointly). Qualified Overtime is compensation that is required to be paid under Section 7 (overview attached) of the Fair Labor Standard Act (FLSA). The deduction only applies to the premium portion of overtime.

For example:

Employee A is paid \$10 per hour, works 40 hours of regular time and 10 hours of overtime @ \$15 per hour (regular pay * 1.50), Employee A receives a total check of \$550 (Regular Pay \$10 * 40 Regular Hours (\$400) + Regular Overtime Pay \$10 * 10 Regular Overtime Hours (\$100) + Premium Overtime Pay \$5 * 10 Regular Overtime Hours (\$50). In this example, the only amount that would qualify for the deduction is \$50 in Premium Pay.

Qualified Tips are limited to \$25,000. Qualified tips mean cash/credit card/tip-sharing arrangement tips received by an individual in a qualified occupation (waiting for the treasury secretary to release a list of qualifying occupations which is due in 90 days) which customarily and regularly received tips before December 31, 2024.

Qualified tips must be paid voluntarily by the customer without any consequence in the event of nonpayment and cannot be the subject of negotiation. This would exclude such things as mandatory service charges and mandatory gratuities.

Since the deduction is retroactive to Jan 1, 2025, we are waiting on additional guidance on how to track and report these wages prior to the law taking effect.

From what we understand at this point, the most likely way for these amounts to be accounted for is on the employees' year end W-2. The W-2 already provides a separate box to account for tips. We expect another box will be added to record the premium overtime wages.

As you can tell, everyone is still in the reaction phase regarding the One Big Beautiful Bill. ELM will continue to provide updates and additional information once that has been released. We would caution anyone from making any drastic changes to their compensation program and/or employee eligibility without discussing it with your tax professional.

The One Big Beautiful Bill and ERC

If you have any lingering doubt that ERC is a political football, any question should be put to rest with the inclusion of ERC in the One Big Beautiful Bill. As I have mentioned before, the ERC has been caught up in a battle between those that feel the program is ripe with fraud (The IRS and some legislatures) and those that argue the bill was passed in Congress and the IRS simply needs to process and pay the claims as instructed (lobbying groups and some legislatures).

In the One Big Beautiful Bill it appears that both sides received some concessions. On the IRS side of the ledger, they have disallowed any claims received after January 31, 2024, but are not yet paid for **3rd & 4th quarter of 2021**. The IRS was fighting for all quarters to be included under that deadline but only came away with 3rd & 4th quarters of 2021.

They also extended the audit look back period for 3rd & 4th Quarter of 2021 claims to five years vs. the customary three years. The IRS originally wanted the statute of limitations to extend to five years on all claims. I will point out that the statute of limitations is not relevant regarding cases of fraud. The lingering question here is what is considered fraud and who gets to make that determination. I don't have an answer to that question.

The IRS was also able to push through harsher penalties and reporting requirements for the "ERC experts" They are specifically going after companies that sprang up overnight with the full intention of profiting from ERC claims. The IRS considers these folks the real culprits in the ERC fraud and most of the delays can be attributed to the IRS views on them.

I have attached an article that goes into much greater detail on ERC and the One Big Beautiful Bill. I welcome you to read it, but I will warn you that it is not an easy read. What I would highly recommend to everyone is to make sure you keep good records regarding your ERC claim and if you have any specific questions reach out to your Accountant or Tax Professional.

FYI – we went through all our claims that we received to determine when they were filed, their status and for which quarters. We only identified two claims that were submitted to us after January 31, 2024 for 3rd &/or 4th Quarter 2021 and had yet to be paid. Therefore, they are the only claims that will be directly impacted by this new law. We will be handling those two directly.

Quick ERC Update

I will save everyone from hearing again about the massive mess that has come to define the processing of ERC claims. From talking with our IRS advocate, the IRS goal is to address every outstanding claim by the end of the year. We received a rush of checks for a short period about a month ago but just as quickly as they started coming, they stopped. It may be my tin foil hat talking, but it seems very strange that checks started to be released but stopped about the same time discussion of the One Big Beautiful Bill ramped up. Maybe now that it has been settled, the IRS will start opening the wallet yet again.

The only thing I can promise on my end is that we will keep working and pushing to get everyone all their money as soon as we can.

Thanks

Joe