Government Liaison Report

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Federal News

IRS Releases 2026 Form W-2, Instructions With Changes Due to OBBBA

On January 9, the IRS released the 2026 Form W-2, Wage and Tax Statement, with changes made due to Public Law 119-21, known as the One Big Beautiful Bill Act (OBBBA). The final version incorporates the anticipated changes made on the draft Form W-2 with some additional updates (see PAYROLL CURRENTLY, Issue 9, Vol. 33). The IRS has also released the General Instructions for Forms W-2 and W-3. The 2026 Form W-2c, Corrected Wage and Tax Statement, includes the same box changes as the Form W-2.

New Box 12 codes. Box 12 has three new codes: TA – Employer contributions to a Trump account TP – Total amount of cash tips reported to the employer and TT – Total amount of qualified overtime compensation.

Box 14 split. Box 14 is now split into 14a – Other and 14b – Treasury Tipped Occupation Code(s). Employers may use Box 14a to report information such as state disability insurance taxes withheld, union dues, uniform payments, health insurance premiums deducted, nontaxable income, or educational assistance payments. Railroad employers will use Box 14a to report railroad retirement (RRTA) compensation, Tier 1 tax, Tier 2 tax, Medicare tax, and Additional Medicare tax. Tips reported by the employee to the employer in RRTA compensation should be included. Employers will use Box 14b to report up to two Treasury Tipped Occupation Codes (TTOCs) for an employee's tipped occupation. These codes will be used to determine whether the employee is in an occupation eligible for the deduction for qualified tips (reported in Box 12 with Code TP).

State PFML programs. Employers must include the employee contribution and the employer voluntary payment for state paid family and medical leave (PFML) programs as wages on Form W-2. The IRS had extended the transition period through the end of 2026 for the federal income and employment tax treatment of contributions and benefits paid in certain situations under state PFML programs (Notice 2026-6, 2026-2 IRB 313 see PAYROLL CURRENTLY, Issue 1, Vol. 34).

Wage reporting threshold increased. For 2026, the OBBBA increases the wage reporting threshold from $600 to $2,000 if no federal income, social security, or Medicare taxes were withheld. This threshold will be adjusted for inflation annually.

Tip reporting Employers were already required to report tips to employees on Form W-2. The 2026 Form W-2 adds Box 12 Code TP to report the total amount of cash tips reported to the employer. Cash tips includes tips received in cash, charged, or under a tip-sharing arrangement. Employees will use the TTOCs in Box 14b and the amount of tips reported in Box 12 under Code TP to determine their qualified tip deduction. If tips were received in more than two occupations, include the TTOC for any two of the three or more occupations. If an employer enters 000 as the TTOC and no other code in Box 14b, the cash tips are not qualified tips for the employee tax deduction under the OBBBA. On September 22, 2025, the U.S. Department of the Treasury released proposed regulations that include the list of tip occupations that customarily and regularly received tips on or before December 31, 2024. The proposed regulations list nearly 70 separate occupations of tipped workers categorized by a TTOC. Each occupation has a three-digit TTOC and is grouped into one of eight categories. The IRS has not finalized the proposed regulations.

OBBBA resources The IRS created the One Big Beautiful Bill Provisions webpage, which provides information on several OBBBA provisions and includes OBBBA resources. PayrollOrg provides information to members as soon as guidance is available. Check the OBBBA Payroll Hot Topics webpage for the latest updates.

IRS Creates Fact Sheet to Answer Employee OBBBA Overtime Questions

The IRS created Fact Sheet 2026-01 to answer FAQs for employees about the tax deduction for qualified overtime compensation under Public Law 119-21, known as the One Big Beautiful Bill Act (OBBBA). The fact sheet addresses qualified overtime and expands on Notice 2025-69, which mainly addressed tax year 2025. The IRS issued the fact sheet to provide general information to taxpayers and tax professionals. The fact sheet is not an authority that may be relied on as it will not be published in the Internal Revenue Bulletin. However, the IRS stated that a taxpayer who reasonably and in good faith relies on the FAQs will not be subject to a penalty that meets reasonable cause standard for relief.

Qualified overtime details The fact sheet has eight FAQs, with the first one being highly relevant to payroll as it explains qualified overtime compensation. Here is a summary.

- Overtime premium. Qualified overtime compensation is overtime compensation required under Fair Labor Standards Act (FLSA) §7 that exceeds the employee’s regular rate of pay for hours worked over 40 in a workweek. The FLSA requires nonexempt employees to be paid an overtime premium at one and one-half times their regular rate for work over 40 hours in a workweek. The “half” or 0.5 portion of the time and a half is the only qualified overtime compensation.
- Who is “required” to be paid the premium. For overtime to be required under the FLSA, it must, among other requirements, be paid to an employee who is both covered by the FLSA and not exempt from the FLSA’s overtime requirement (an FLSA overtime-eligible employee). Questions 2 and 3 discuss who is covered.
- Only FLSA matters. Employees who are ineligible for overtime under the FLSA do not receive qualified overtime compensation regardless of other laws or circumstances (such as collective bargaining agreements) that may provide them other overtime pay.
- If an employer pays more than is required under the FLSA, the qualified overtime compensation is limited to the portion of the overtime that is required by the FLSA. For example, if an employer pays double the employee’s regular rate for hours worked over 40 in a workweek, only the one- half portion required under the FLSA is qualified overtime compensation.

Reporting qualified overtime Beginning with tax year 2026, employers are required to separately report qualified overtime compensation. The IRS has already updated Form W-2, Wage and Tax Statement, to account for the reporting change. The IRS also will update Forms 1099-NEC and 1099-MISC to allow payers to provide separate reporting of a worker's qualified overtime compensation. PayrollOrg's OBBBA Payroll Hot Topics webpage details important changes payroll professionals need to know about the OBBBA.

ED Delays Federal Student Loan Garnishments

On January 16, the U.S. Department of Education (ED) announced it will delay involuntary collections (wage garnishments) on federal student loans while it is implementing major student loan repayment reforms under the Working Families Tax Cuts Act [ED, U.S. Department of Education Delays Involuntary Collections Amid Ongoing Student Loan Repayment Improvements, 1-16-26]. ED said the delay in collections will give defaulted borrowers additional time to evaluate new repayment options. Although ED does not give a specific time for the wage garnishments to begin, one of the upcoming repayment plans is scheduled to begin July 1, 2026

DOL Opinion Letters-FLSA (4) and FMLA (2)

- *FLSA*
    - *Learned professional exemption*: FLSA2026-01 addresses whether an employee who was reclassified from exempt to nonexempt during a restructuring could still meet the criteria for the FLSA's learned professional exemption as she is a licensed clinical social worker. Due to the reorganization, the employee will no longer supervise others. The letter also asked whether the employer is permitted to reclassify the employee as nonexempt. **The opinion letter states that it is likely the employee's primary duty requires advanced knowledge and academic requirements to qualify the employee as an exempt learned professional.**
    - *Bonuses and RROP:* FLSA2026-2 addresses whether the FLSA permits an employer to exclude certain bonus payments from an employee's regular rate of pay (RROP). The letter details a scenario where a waste management company pays drivers $12 per hour, plus bonuses of up to $9.50 per hour (based on punctuality, attendance, safety compliance, and performance). The bonus plan uses predetermined formulas, and employees receive the bonus plan details before performing work. The employer excluded the bonuses when calculating overtime premiums and used only the $12 base rate. **The opinion letter states that, based on the facts presented, the**

employer must include the payments in employees' RROP in any workweek the payments are earned because the payments are "incentives" and not discretionary.

- *Commissions under §207(i):* FLSA2026-4 addresses which minimum wage rate an employer should use to determine whether it has satisfied the salary requirement for the overtime exemption for restaurant employees under FLSA §207(i) when the employer is in a state with a higher minimum wage than the federal minimum wage. The opinion letter also asks whether tips are compensation for purposes of the FLSA's requirement that more than half the employee's compensation consists of commissions. **The opinion letter states the FLSA refers to the federal minimum wage ($7.25 per hour) and not any other applicable minimum wage. The employer will satisfy the minimum pay standard to qualify for the exemption if employees receive a RROP greater than 1½ times the hourly federal minimum wage, which is $10.88 ($7.25 × 1.5 =$10.875)**
- *Compensable overtime under a CBA:* FLSA2026-3 addresses whether the FLSA permits a union and an employer to enter into a collective bargaining agreement (CBA) that mandates a 15-minute roll call prior to each scheduled shift but excludes that time when calculating employees' overtime premiums. Employees would be paid for those 15 minutes. **The opinion letter states that, based on the information presented, the roll call time must be included when determining whether employees work more than 40 hours in a workweek and would be entitled to overtime. In this case, the roll call would be required by the CBA, which means the time is hours worked under the FLSA.**

- **FMLA**
    - *Leave due to a business closure:* FMLA2026-1 addresses the impact on an employee's FMLA leave entitlement when the business is closed due to inclement weather while the employee is on FMLA leave. **The opinion letter states that how the FMLA leave is taken matters in calculating time used. If a business closes for part of a week during which an employee uses less than a full week of FMLA leave, the period during which the business is closed is not counted as FMLA leave (unless the employee was scheduled and expected to work and uses FMLA leave for that time). If an employee uses FMLA leave for a full workweek and the business closes for less than a week, the closure has no impact on the employee's FMLA leave use. The employer may deduct a full week of leave from the**

employee's FMLA leave entitlement. In other words, if the employee is scheduled on FMLA leave for Monday through Friday of a week, and the business is closed Tuesday due to weather, the employee would use a full week of FMLA leave.

- *Travel time for appointments:* FMLA2026-2 address whether an employee may use FMLA leave for time spent traveling to or from medical appointments if the employee's medical certification confirms the employee's need for the appointment but does not address travel to or from the appointment**. The opinion letter states that if an eligible employee travels to or from a health care provider for a medical appointment regarding the employee's serious health condition, the employee may take FMLA leave for the actual appointment and also the time traveling to or from the appointment. The travel time must be directly related to the serious medical condition as the FMLA leave does not cover travel time spent on unrelated activities or personal errands during these trips. Medical certification does not need to include any information regarding travel time to be considered complete and valid**

IRS Pushes Amendment Deadline for IRAs, SEP, and SIMPLE IRAs

The IRS extended the deadline to amend individual retirement arrangements (IRAs), Simplified Employee Pension (SEP) arrangements, and Savings Incentive Match Plan for Employees (SIMPLE) IRA plans to December 31, 2027 [Notice 2026-9, 1-26-26].The IRS said it is still developing model language for the plans, and the new deadline will allow more time for these plans to comply with provisions of §501 of the SECURE 2.0 Act. A previous extension had changed the amendment date from January 1, 2025, to December 31, 2026.

SSA Relaunches Form W-2 Electronic Newsletter

In mid-January, the Social Security Administration (SSA) announced the relaunch of its W-2 News electronic newsletter. To sign up for the newsletter and receive updates for wage reporting issues, go to SSA's employer website and scroll down to "Subscribe here to receive the next issue of W-2 News" and follow the instructions. Users already registered with Business Services Online (BSO) or subscribed to Social Security eNews may receive the newsletters without further signing up.

HHS Raises Civil Penalties for HIPAA Violations, NDNH Misuse

The Department of Health and Human Services (HHS) released a rule to adjust the civil penalties for certain privacy violations, including violations of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and misuse of National Directory of New Hires (NDNH) information [91 F.R. 3665, 1-28-26]. The new amounts apply only to civil penalties assessed on or after January 28, 2026, whose associated violations occurred on or after November 2, 2015.

- For a violation where it is established that the covered entity did not know and, by exercising reasonable diligence, would not have known that the covered entity or business associate violated such provision, the minimum penalty increases to $145 (from $141), and the maximum penalty increases to $73,011 (from $71,162).
- For a violation due to reasonable cause and not to willful neglect, the minimum penalty increases to $1,461 (from $1,424) and the maximum penalty increases to $73,011 (from $71,162).
- For a violation due to willful neglect that was corrected during the 30-day period beginning on the first date the covered entity liable for the penalty knew, or, by exercising reasonable diligence, would have known that the violation occurred, the minimum penalty increases to $14,602 (from $14,232) and the maximum penalty increases to $73,011 (from $71,162).
- For a violation due to willful neglect that was not corrected during the 30-day period beginning on the first date the covered entity liable for the penalty knew, or, by exercising reasonable diligence, would have known that the violation occurred, the minimum penalty increases to $73,011 (from $71,162) and the maximum penalty increases to $2,190,294 (from $2,134,831).
- The calendar year cap for all multiple identical violations in each of the preceding categories increases to $2,190,294 (from $2,134,831).
- The penalty for misuse of information in the NDNH increases to $1,926 (from $1,877)

Change in USPS Postmarks May Affect Filings Through Mail

The U.S. Postal Service (USPS) clarified its new final rule for when a piece of mail is "postmarked" or affixed with a date [90 F.R. 52883, 11-24-25]. Before December 25, 2025, the postmark generally showed the date a piece of mail was dropped off at a retail post office. Under the new rule, a dated postmark is not affixed until the piece of mail begins being processed at a processing operation. Employers should be warned that under the new rule, putting correspondence, such as an information return, in the U.S. mail before the due date will no longer be sufficient as there is no guarantee what date will actually be shown on the postmark. The new postmark dating system will affect correspondence mailed close to deadlines. Employers should send time-sensitive items well before deadlines to allow extra time for the mail to reach a processing operation. In rural areas, it may take several days for mail to be processed. The final rule recommends that anyone who must be certain of a postmarked date have the item hand-stamped in a retail postal location. Postal customers can also use registered or certified mail or purchase a certificate of mailing

IRS issues FAQ about EO 14247: Modernizing Payments

The Internal Revenue Service issued frequently asked questions in Fact Sheet 2026-02 PDF to help taxpayers, businesses, and other stakeholders understand the changes under Executive Order 14247: Modernizing Payment To and From America's Bank Account. These changes apply to Payments sent by the federal government, including tax refunds, benefits, grants, and vendor or contractor payments; and Payments made to the federal government, including tax balances due, fees, penalties, and other payments from individuals, businesses, nonprofit organizations, and state or local partners.

To prepare for these changes, the IRS encourages taxpayers to:

- Use direct deposit for refunds by providing accurate bank or prepaid debit card information when filing.
- Choose electronic payment options when paying taxes, such as IRS Direct Pay, Electronic Federal Tax Payment System, or other approved methods.
- Review account information to ensure bank details are current and correct.
- Visit IRS.gov to learn about electronic payment options and available resources for taxpayers without a bank account.

US Department of Labor announces compliance assistance tools to help employers understand federal labor laws, avoid violations

The U.S. Department of Labor's Wage and Hour Division announced the launch of several compliance assistance resources designed to promote greater compliance with federal labor laws and empower employers with the tools and knowledge they need to prevent violations.

The new tools include a compliance assistance webpage, a video series on the Family and Medical Leave Act, and revamped compliance assistance toolkits for various industries. In addition to encouraging proactive compliance among employers across the country, the resources also provide American businesses and workers with simple, straightforward guidance on understanding federal labor laws.

The announcement follows the recent relaunch of the department's opinion letter program, which expands the department's longstanding commitment to providing meaningful compliance assistance that helps workers, employers, and other stakeholders understand how federal labor laws apply in specific workplace situations.

The division also offers the Payroll Audit Independent Determination program known as PAID, to help employers self-report and resolve potential minimum wage and overtime violations under the Fair Labor Standards Act, and now certain potential violations under the FMLA.

Learn more about the Wage and Hour Division, including a search tool that workers can use if they think they may be owed back wages collected by the division. Employers and workers can call the division with questions and requests for compliance assistance through the agency's toll-free helpline at 866-4US-WAGE (487-9243).

State News

Arkansas *Employee withholding certificate updated.* The Division of Taxation (DOT) has revised Form AR4EC, Employee's Withholding Exemption Certificate. Employers are instructed to keep the form completed by employees for recordkeeping.

California *Payroll reporting requirements for motion picture industry updated.* Effective for 2026, motion picture payroll services companies are required to file a report of payments made to loan-out companies each quarter. The first quarterly report is due 4-1-26 on Form DE 422, Report of Payments to Loan-Out Company [Employment Development Department, S.B. 422 – Motion Picture Industry and Loan-out Companies].

Connecticut *Withholding guide updated.* For 2026, Revenue Services (RS) has issued an updated tax guide for employers. It includes withholding calculation rules and withholding tables that are unchanged from 2025 [RS, Circular CT IP 2026(1), 12-12-25].

Georgia *Withholding tables updated.* Effective 1-1-26, the Department of Revenue (DOR) has issued revised percentage method and wage bracket withholding tables. The supplemental wage tax rate remains 5.19% as of 7-1-25.

Illinois *Withholding tables updated.* Effective 1-1-26, the Department of Revenue (DOR) has issued updated withholding tables. The supplemental wage tax rate remains 4.95% [DOR, 2026 Booklet IL-700-T, Illinois Withholding Tax Tables, rev. December 2025].

Iowa *State to conform with OBBBA.* The Department of Revenue (DOR) released guidance explaining the state is conforming with Public Law 119-21, known as the One Big Beautiful Bill Act (OBBBA). Iowa conforms to federal tax provisions related to "no tax on tips" and "no tax on overtime" and to the current version of the Internal Revenue Code. Though the deductions are permitted for tax years 2025 and 2026, the 2026 Iowa Form W-4 will not be changed to allow for the new deductions [DOR, Impact of One Big Beautiful Bill Act on Employee Withholding].

Maryland *State will not conform to OBBBA*. Guidance issued by the Comptroller of Maryland (COM) explains that the "no tax on tips" and "no tax on overtime" provisions of Public Law 119-21, known as the One Big Beautiful Bill Act (OBBBA), are federal deductions and cannot be taken on Maryland personal income tax returns [COM, Maryland Impacts of the One Big Beautiful Bill Act, 1-6-26].

Massachusetts *Commuter exclusion amounts updated.* For tax year 2026, the federal monthly exclusion amounts are capped at $340 for employer-provided parking and $340 for transit pass and commuter highway vehicle benefits combined. The

Massachusetts monthly exclusion amount is $335 for employer-provided parking and $335 for combined transit pass and commuter highway vehicle benefits. At the federal level, the exclusion for bicycle commuting was repealed, but Massachusetts still allows it and the monthly exclusion amount is $20 [Department of Revenue, TIR 25-9, 12-23-25].

Withholding tables, instructions updated. Effective for wages paid on or after 1-1-26, the Department of Revenue (DOR) has issued updated percentage method and wage bracket withholding tables. The instructions for calculating supplemental wage payments were updated to include the inflation-adjusted threshold for the 4% surtax on taxable income over $1 million that took effect 1-1-23 [DOR, Circular M].

Michigan *Deductions for qualified tips, overtime compensation permitted.* The Department of Treasury (DOT) issued guidance regarding the new state deductions for qualified tips and overtime, following last year's legislation that mirrors federal deductions created by Public Law 119-21, known as the One Big Beautiful Bill Act. State deductions are permitted for qualified tips under IRC §224 and for qualified overtime compensation under IRC §225. Nonresidents may deduct only qualified tips and qualified overtime from services performed in Michigan. The Michigan deductions are allowed for tax years 2026, 2027, and 2028, but not 2025 [DOT, Notice Regarding New Deductions for Qualified Overtime Compensation and Qualified Tips, 1-6-26].

Montana *Threshold for electronic tax payments lowered.* Effective 1-1-26, the Department of Revenue (DOR) requires all tax payments, including withholding tax payments of $50,000 or more, to be made electronically. Previously, the threshold was $500,000. Electronic payments can be made via the TransAction Portal [S.B. 54, L. 2025 DOR, News Release, 12-29-25].

North Carolina *Withholding tables updated; supplemental wage tax rate reduced.* Effective 1-1-26, the Department of Revenue (DOR) has issued updated percentage method and wage bracket withholding tables. The supplemental wage tax rate is reduced to 4.09% from 4.35% [DOR, NC-30, November 2025].

Ohio *Employer withholding guidelines issued.* The Department of Taxation has issued the employer and school district withholding filing guidelines for 2026. Employers are reminded that if an employee fails to submit form IT 4, Employee's Withholding Exemption Certificate, the employer must withhold tax as if the employee claimed zero exemptions.

Employment verification for construction industry required. Effective 3-20-26, nonresidential construction contractors, subcontractors, and labor brokers will be required to use the federal E-Verify program to verify the employment eligibility of each employee. The employer will not be required to verify the employment eligibility for an employee who was previously verified and is not required to be reverified under federal law. Penalties for failing to verify an employee are $250 for the first instance, $1,000 for a second instance in 3 years, and $1,500 for a third or subsequent instance in 3 years. Penalties for continuing to employ an employee after receiving a final nonconfirmation are $5,000 for the first instance, $10,000 for a second instance in 3 years, and $25,000 for a third or subsequent instance in 3 years [H.B. 246, L. 2025].

South Carolina *Employee withholding allowance certificate updated.* The Department of Revenue updated Form SC W-4, Employee's Withholding Allowance Certificate. An employee may claim exempt from state withholding tax if the employee had a right to a refund of all South Carolina income tax withheld and the employee expects a refund for 2026, or the employee is a military servicemember or a military servicemember's spouse who is electing for tax purposes to use the domicile state of the servicemember, the domicile state of the spouse, or the permanent duty station of the servicemember as the state of domicile. An exemption expires on December 31 unless the employee submits a new Form SC W-4.

State does not conform to OBBBA. The Department of Revenue (DOR) issued guidance explaining that it conforms with the Internal Revenue Code as of 12-31-24. Public Law 119-21, known as the One Big Beautiful Bill Act (OBBBA), was signed into law on 7-4-25 (after the state legislature was no longer in session for the year). Therefore, the state does not allow deductions for tips and overtime for state tax purposes. The DOR said once the state passes legislation addressing conformity with the OBBBA, it will issue new guidance [DOR, SC Information Letter #26-4, 1-30-26].

Washington *Workers' compensation payroll tax rates announced.* The Department of Labor and Industries (DLI) announced the 2026 workers' compensation premium rates. The rates consist of four components: (1) the accident fund premium (paid only by employers) (2) the medical aid premium (3) the supplemental pension assessment (the 2026 rate is $0.1912 per hour worked) and (4) the Stay at Work premium. One-half of certain premiums may be paid by employee contributions through payroll deductions [DLI, Rates For Workers' Compensation].