TCJA 2.0: The One, Big, Beautiful Bill Arrives

June 13, 2025

The House Ways & Means Committee approved an initial version of tax proposals for inclusion in The One, Big, Beautiful Bill (the "OBBB") on May 14, 2025 and the House then passed the bill with some updates on May 22, 2025.

The House bill would fulfill the Republican Party's priority to extend expiring provisions of the 2017 Tax Cuts and Jobs Act (the "TCJA"), including extending reduced tax income tax rates for individuals and the doubled standard deduction and child tax credit. The House bill would reinstate the "trifecta" of popular business provisions that allow for current deductions for R&D and capital expenditures and a less restrictive interest deductibility limitation. In addition, the bill would fulfill President Trump's campaign promises by providing targeted tax deductions for certain tips, overtime income and social security benefits, through 2028.

In a nod to Blue State Republican demands, the deduction for state and local income taxes ("SALT") is proposed to increase from $10,000 to $40,000 but with phase outs for higher-income taxpayers. It remains to be seen if the cap is adjusted further in the Senate before the OBBB is finalized. The OBBB would curtail the "pass-through entity tax" mechanism that had allowed partners in a partnership to benefit from an uncapped SALT deduction by limiting this benefit to businesses eligible for the qualified business income ("QBI") deduction, which would mean asset management, consulting and legal businesses would lose this benefit. The OBBB would also scale back clean energy tax credits. The bill also includes a broad penalty tax provision that would impact foreign investors from countries that impose "unfair foreign taxes," specifically including the undertaxed profits rule ("UTPR"), digital service taxes ("DST") and diverted profits taxes many countries already have adopted, unless these countries agree to create exceptions for U.S. taxpayers.

Several noteworthy items are absent from the House bill, including carried interest, a new top tax bracket for high-income individuals, a corporate SALT cap and tax relief for Americans abroad.

The tax cuts must operate within budget reconciliation limitations on the amount of additional deficits created by the OBBB. Although the House's budget resolution allows deficits to reach $4 trillion over 10 years (and in certain cases $4.5 trillion), the Joint Committee on Taxation ("JCT") scored the House-passed bill at costing $3.798 trillion over 10 years.

The Senate now takes up the bill, with the goal to have final legislation on the President's desk by July 4, 2025.

Extensions

Individuals

Individual Income Tax Rates, Standard Deduction

The lower individual income tax rates and doubled standard deduction created by the TCJA would be permanent.

Debevoise Comment: The top rate remains at 37%. House tax-writers did not include the much talked about "millionaire's tax"—a new top rate applicable to high-income individuals, though Trump indicated that he was open to a higher top marginal tax rate.

Qualified Business Income Deduction

The QBI deduction for qualifying income received from certain pass-through entities (partnerships, LLCs or S corporations) or proprietorships (or by way of ordinary REIT dividends) would be permanent. In a surprise move, the deduction percentage would be increased from 20% to 23% beginning in 2026.

Estate and Gift Tax Exemption

The estate and gift tax exemption would be increased to $15 million beginning in 2026, indexed for inflation going forward.

Home Mortgage Interest

The limit on loan size for the mortgage interest deduction would remain at $750,000 permanently.

Businesses

Immediate Expensing of Depreciable Assets

100% expensing of qualified depreciable property would be reinstated for property acquired on or after January 20, 2025 and placed in service before January 1, 2030.

Immediate Expensing of R&D

The immediate deduction for domestic research and development ("R&D") expenses would be available for such expenditures paid or incurred in taxable years beginning after December 31, 2024 and before January 1, 2030. Non-U.S. R&D expenses would continue to be amortized over 15 years.

Increase in Deduction for Net Business Interest Expense

The deduction for net interest expense (business interest expense less business interest income) would be increased to the TCJA's original 30% of EBITDA formulation for taxable years beginning after December 31, 2024 and before January 1, 2030. Since 2022, the limitation has been based on 30% of EBIT, which resulted in a tighter limitation.

Debevoise Comment: Immediate expensing and the more relaxed interest deduction limitation (both of which would go into effect for 2025) would favor business growth and M&A transactions by decreasing tax costs.

International

GILTI, FDII and BEAT

The TJCA's "global intangible low-taxed income" ("GILTI"), "foreign-derived intangible income" ("FDII") and "base erosion anti-abuse tax" ("BEAT") regimes would remain in place. The OBBB would make permanent an effective 10.668% tax rate on GILTI income (the new rate is up slightly from the current rate of 10.5%, which is set to increase to 13.125% in 2026, to address Senate budget rules) and a 13.355% effective tax rate on FDII (up from the current 13.125% which is set to increase to 16.406% in 2026). The 10.1% minimum tax rate on corporations subject to BEAT (up from the current 10%, which is set to increase to 12.5% in 2026) would also be permanent.

Campaign Tax Promises

As promised during the course of President Trump's campaign, the OBBB would create temporary tax deductions to reduce or eliminate taxes on certain tips, overtime income and social security benefits. These provisions would apply for taxable years beginning after December 31, 2024 and would sunset near the end of the President's term on December 31, 2028.

In each case, to claim the deduction, taxpayers must provide an SSN in their returns. When available, these deductions can be taken regardless of whether a taxpayer itemizes deductions or claims the standard deduction.

No Taxes on Tips

The OBBB would introduce a special deduction for certain tips. The proposal includes certain guardrails to curtail gaming. For example, the deduction would be available only to those who work in industries where tipping has been traditional and customary, such as food service. A list of qualifying occupations would be published by Treasury within 90 days of enactment. In addition, the tips would need to be determined and voluntarily given by the payor. No deduction would be allowed for any tips for other professional service earned in a “specified service trade or business,” including asset management, consulting or law, or for tips earned by a “highly compensated employee” earning over $160,000, (with an inflation adjustment).

No Taxes on Overtime

Similar to the approach on tips, the OBBB would introduce a special deduction for overtime income. The deduction would apply only with respect to qualified overtime compensation, as defined by reference to the Fair Labor Standards Act of 1938, with the same exclusion as with tips for those earning over $160,000 (inflation adjusted).

Enhanced Deduction for Seniors

The OBBB would introduce a special deduction of $4,000 per individual for taxpayers who are at least 65 years old, with a phase out for taxpayers with income in excess of $75,000 ($150,000 for joint filers).

Revenue Raisers

162(m) Amendment

Section 162(m) of the Internal Revenue Code generally limits the amount a publicly held corporation may deduct for compensation paid to certain covered employees to $1 million per taxable year. The OBBB would codify an entity aggregation rule so that compensation paid by each member of a publicly held corporation’s controlled group is aggregated for the purpose of applying the $1 million limitation.

Debevoise Comment: The effect of the proposed changes to Section 162(m) is to tighten up the application of the deduction limit where compensation is paid to a specified covered employee by multiple entities within the same controlled group. For many publicly held companies, the OBBB would result in no practical impact. Importantly, the OBBB would not expand the types of entities subject to Section 162(m) (e.g., it does not extend coverage to private corporations as had been proposed by other administrations in the past), nor would it broaden the categories of employees subject to the deduction limitation beyond those already addressed by statute and proposed regulations.

Sports Team Amortization Limitation

The OBBB would limit the amortizable step-up for sports teams to 50% of the cost allocated to goodwill and other 197 intangibles.

Energy Credit Pullback

The OBBB accelerates the termination of a number of energy credits, including for certain clean vehicle credits and energy-efficient home credits, and introduces phaseouts for a number of other credits, including clean electricity production credits and clean electricity investment credit. It also restricts the transferability for certain electricity and fuel credits within several years of the enactment of the bill.

Debevoise Comment: Many of these tax credits originated in the 2022 Inflation Reduction Act (the "IRA"). A full repeal of the IRA tax credit regimes had been suggested by some early in the process, but in the end a more targeted approach was taken.

Debevoise Comment: The IRA included flexibility in transferring tax credits where the direct taxpayer is not able to utilize the credits, and the market has just started adjusting to the new transfer rules. The restrictions in the OBBB would likely disrupt this industry.

Partnership Disguised Payments for Services/Property

A last-minute addition to the House-passed bill would modify Section 707(a) to make partnership rules on disguised payments for services/disguised sales of property effective without the need for IRS regulations. There are already regulations on disguised sales of property to partnerships, but the disguised services regulations have been in proposed (not finalized) form for many years and the Treasury initially proposed regulations on disguised sales of partnership interests but then withdrew them.

Debevoise Comment: This last-minute addition was unexpected, and the policy intent is somewhat unclear. The intent may be to defang arguments that transactions cannot be recast into disguised sales of partnership interests absent new regulations.

Excise Tax on Remittance Transfers

The OBBB would impose a 3.5% excise tax on remittance transfers to non-U.S. persons by non-U.S. nationals within the United States. Financial institutions that process and pay remittances on which the excise tax is due would be subject to secondary liability for any tax not paid at the time of the remittance.

Debevoise Comment: Remittance transfer providers should consider instituting a process in which they withhold the relevant excise tax from taxable remittances and pay it to the government to ensure that they avoid secondary liability for unpaid tax.

Salt Deduction Cap and PTET

Current federal law caps the itemized deduction for individuals for SALT at $10,000 (or $5,000 for a married taxpayer filing a sperate return). Under the OBBB, the SALT cap would increase to $40,000 (or $20,000) in 2025, and $40,400 for 2026 (with 1% step up each year through 2033). However, the SALT cap increase would phase down (but not below $10,000 (or $5,000)) by 30% of the excess of an individual's income over $500,000 (or $250,000) for 2025 and $505,000 (or $252,500) thereafter. The SALT cap would be extended permanently for taxable years beginning after December 31, 2025.

Debevoise Comment: In addition to any policy concerns, a full repeal of the SALT cap would have increased the deficit score substantially and beyond what was permissible under the House budget resolution without significantly scaling back other priorities within the OBBB.

The OBBB would also close the Pass-Through Entity Tax (the "PTET") workaround for the SALT cap. Many of these regimes (i) allow a partnership or an S corporation to pay state income taxes and (ii) provide individuals that own an interest in the partnership or S corporation with a credit based on their share of the entity's state tax payment. Because such payments are treated as an entity-level expense by the partnership or the S corporation and are not separately stated, these payments reduce net income allocated to the partners or S corporation shareholders on their Schedule K-1s, resulting in such taxes effectively being deducted for federal income tax purposes.

The OBBB would pull such payments into the SALT cap framework as a specified tax. The OBBB appears to include as a specified tax any entity level income taxes (such as NYC unincorporated business taxes) imposed on a partnership. The OBBB would also require PTET payments and other income tax to be reported as separately stated items by partnerships and S corporations on Schedule K-1, which items would then be subject to the SALT cap at the partner or shareholder level.

The PTET workaround would still be available for businesses eligible for a QBI deduction, but other businesses, such as asset management, consulting and legal businesses, would lose this benefit.

Debevoise Comment: The OBBB does not create a new SALT cap for corporations, despite speculation that such a cap might be proposed.

Endowments, Private Foundations and Other Tax-Exempt Organizations

Excise Taxes for Private Colleges, Universities and Foundations

The OBBB would replace the 1.4% excise tax on the net investment income of applicable colleges and universities ("Institutions") with graduated rates based on the aggregate fair market value of an Institution's assets divided by the number of its eligible students. The maximum rate of 21%, which would apply to Institutions with student adjusted endowments exceeding $2,000,000, is likely to affect only a small number of the nation's elite universities. The net investment income base would also be broadened to include interest income from a student loan made by the Institution and royalty income derived from intangible property if any federal funds were used in researching, developing or creating the property.

Debevoise Comment: Institutions impacted by the proposal may want to consider accelerating recognition of unrealized gains in their investment portfolios in advance of the December 31, 2025 effective date.

Debevoise Comment: Private fund sponsors may see an uptick in requests from Institutions for information relating to the determination of their net investment income, such as the applicable portion of a corporate distribution that is treated as a dividend for U.S. tax purposes. The OBBB would make similar changes to the excise tax imposed on the net investment income of certain private foundations, replacing the flat 1.39% rate with a graduated rate table with a top rate of 10% for foundations with assets of at least $5 billion.

Retaliation Against Unfair Foreign Taxes

The OBBB would introduce a substantial additional tax on investors from foreign countries that impose "unfair taxes" on U.S. multinationals. New Section 899 would impose an escalating tax that increases by 5 percentage points each year on top of regular U.S. withholding taxes, income tax and branch profits taxes that would otherwise apply to investors from these countries.

The new provision is aimed at penalizing countries that impose "unfair" foreign taxes on U.S. persons, including OECD Pillar 2's UTPR, DSTs and diverted profits taxes.

The definition of "unfair" foreign tax is broadly drafted. In addition to UTPR, DSTs and diverted profits taxes, the law would provide the Secretary with considerable latitude to expand this list to other taxes deemed extraterritorial or discriminatory. The law includes an angel list of taxes that typically would not be treated as discriminatory, including conventional income taxes, withholding taxes on non-service income, VAT and property taxes.

Debevoise Comment: Treasury could use its power to identify taxes as "extraterritorial" or "discriminatory" to attack a wide variety of commonly imposed taxes, including, for example, withholding taxes that apply to services provided by U.S. companies to residents of foreign countries.

Debevoise Comment: Foreign countries could implement targeted changes to an "unfair" tax to exclude U.S. persons and their controlled foreign corporations. However, such changes could raise questions about disparate treatment of taxpayers.

Applicable persons that would be subject to the new rule include the governments of "discriminatory" foreign countries and their subsidiaries, non-U.S. individuals and corporations that are tax resident in such countries (or corporations majority owned by other applicable persons), as well as non-U.S. foundations, non-U.S. partnerships, branches and other entities designated by the Secretary. Non-U.S. corporations that are at least 50% owned by U.S. persons would be excepted.

Debevoise Comment: A corporation's tax residence outside of the United States may differ from its jurisdiction of organization. In addition, the application of the new rules to partnerships (in particular, whether a partnership would be treated as an applicable person in its entirety or be subject to look-through) is unclear.

New Section 899 would impose incremental rate increases of 5% per year, up to 20%, above the baseline statutory rate for specified U.S. taxes (e.g., FDAP tax on periodic income, effectively connected business income derived by corporations, U.S. real property income and branch profits tax) in addition to U.S. withholding tax rates. These increases would override existing U.S. tax treaties by layering the new tax on top of reduced tax rates (or tax exemptions) available under tax treaties. For example, interest income exempt from tax under a tax treaty would be taxed at 5% during the first year, then 10% and so on. The new regime would also apply the BEAT rules (which impose a minimum tax on deductible payments to foreign affiliates) to U.S. corporations owned more than 50% by such "applicable persons" regardless of the corporation's size with unfavorable adjustments, such as increasing the minimum tax rate on deductible payments to 12.5% (from 10%) and removing the benefit of certain business credits.

The new tax would become effective for taxable years beginning after the 90th day following the enactment of the OBBB. Withholding agents would need to use their best efforts to comply starting in 2026.

Debevoise Comment: The rules would pose compliance challenges for U.S. withholding agents, including financial sponsors, particularly in applying the rules to payments to entities that are not resident in targeted jurisdictions but whose owners may be residents in such jurisdictions.

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Please do not hesitate to contact us with any questions.

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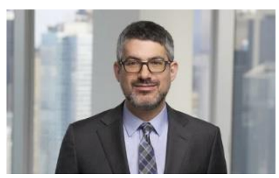

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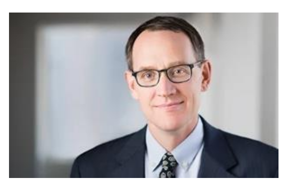

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