FAQs re: "Qualified Overtime" and the One, Big, Beautiful Bill

The One, Big, Beautiful Bill Act (OBBBA), Public Law 119-21, enacted July 4, 2025, created new federal income tax deductions for "qualified tips" and "qualified overtime compensation." These provisions appear in Internal Revenue Code §§ 224 and 225.

For SMACNA contractors, who pay substantial amounts of overtime (and even double-time) to employees pursuant to a collective bargaining agreement (CBA), there are questions about what constitutes "qualified overtime" and what does the contractor need to report to employees for work performed in 2025.

Recently, the Internal Revenue Service (IRS) issued guidance (Notice 2025-62 and Notice 2025-69) that helps explain what payments constitute "qualified overtime compensation" and what employers must report to employees on their 2025 IRS Form W-2.

There are two big takeaways for SMACNA contractors:

- *First*, SMACNA contractors do ***not*** need to report "qualified overtime" on employees' 2025 IRS Forms W-2. Employers can, but are not required, to provide information to employees about the amount of overtime paid to them. In 2027, employers will be required to report "qualified overtime" on employees' 2026 IRS Form W-2s.

- *Second*, "qualified overtime" is limited strictly to FLSA-mandated overtime (i.e., the half-time premium after working 40 hours in a week), not contractual overtime under a CBA, not state-law mandated daily overtime, and not premium pay such as double-time or holiday pay.

The following FAQs are designed to help contractors understand their obligations under the OBBBA as they prepare for 2026 and beyond.

FAQ-1 What is "qualified overtime" under the OBBBA?

The OBBBA defines "qualified overtime" to mean "overtime compensation paid to an individual required under 29 U.S.C. § 207 that is in excess of the regular rate at which the individual is employed."[1] By its terms, the OBBBA limits the deduction to only the overtime premium mandated by the federal Fair Labor Standards Act (FLSA).[2]

Under Section 7 of the FLSA, non-exempt workers must be paid "overtime" (or 1.5 times an employee's "regular rate") for all hours worked in excess of 40 hours per week. The FLSA overtime premium is the "one-half" portion of the overtime amount. The OBBBA limits the

[1] 26 U.S.C. § 225(c)(1).

[2] The FLSA is codified at 29 U.S.C. §§ 201-219. Section 7 is found at 29 U.S.C. § 207.

deduction to only the FLSA-mandated overtime premium – that is, the additional "one-half" time paid for hours worked over 40 in a workweek.

FAQ-2 Does overtime paid pursuant to a CBA (for weekend work, work outside the employee's normal schedule, or work in excess of 8 or 10 hours) count as "qualified overtime" under the OBBBA?

No, overtime paid pursuant to a CBA is ***not*** "qualified overtime compensation" ***unless*** the overtime is ***required*** by the FLSA. Remember, the FLSA only requires overtime compensation after 40 hours of work in a single week.

In Notice 2025-69, the IRS explains:

> Some employers . . ., under a collective bargaining agreement with a labor union, . . . may provide overtime pay that is ***not*** required by 29 USC § 207. For example, an employer . . . may choose to pay employees an extra amount to work on weekends or holidays.[] In such cases, ***while the additional one-half times portion required by the FLSA may be qualified overtime, payments in excess of the FLSA-required premium are not***.[3]

FAQ-3 Does state-mandated daily overtime qualify as "qualified overtime" under the OBBBA?

No. Daily overtime mandated by state law (e.g., California or Colorado) is not "qualified overtime" because it is not "required" by Section 7 of the FLSA. Remember, under the FLSA, overtime is required only if the employee works more than 40 hours in a week. Additional daily overtime payments would not constitute "qualified overtime" unless the employee was working more than 40 hours in a week. Any overtime hours beyond 40 would not constitute "qualified overtime."

In Notice 2025-69, the IRS explains:

> [U]nder State law, [an employer] may provide overtime pay that is ***not*** required by 29 USC § 207. . . . In such cases, ***while the additional one-half times portion required by the FLSA may be qualified overtime, payments in excess of the FLSA-required premium are not***.[4]

FAQ-4 Does double-time paid pursuant to a CBA or policy count as "qualified overtime" under the OBBBA?

No. The deduction is capped at the FLSA-required premium (the additional "one-half" times above the "regular rate"), even if an employer voluntarily pays more. In Notice 2025-69, the IRS explains: "Payments in excess of the FLSA-required premium are not ['qualified overtime']."[5]

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[3] IRS Notice 2025-69 at 10-11.
[4] IRS Notice 2025-69 at 10-11.
[5] IRS Notice 2025-69 at 11.

Consider the following examples:

Regular overtime (i.e., time-and-one-half after 40)

If a worker's regular rate is $20 per hour, the FLSA requires payment of $30 per hour for overtime ($20 regular rate + $10 overtime premium).

- Deductible portion: $10 (the .5x overtime premium)
- Not deductible: the underlying $20 regular-rate amount.

Double-time (i.e., 2x wage pursuant to CBA)

If the employer pays $40 per hour for overtime ($20 regular rate + $20 double-time premium), the deductible portion remains $10, because the FLSA requires only time-and-one-half – not double-time.

- Deductible portion: $10 (the .5x overtime premium)
- Not deductible: $20 (the regular-rate portion) and the extra $10 premium not required by the FLSA.

FAQ-5 Do SMACNA contractors need to report "qualified overtime" to employees on their 2025 IRS Form W-2s?

No. The IRS made clear that W-2 Forms will not change for 2025 and "employers . . . will not be required to separately account for . . . qualified overtime compensation . . . for 2025." [6]

As the IRS explained: "taxable year 2025 will be regarded as a transition period for purposes of IRS enforcement . . ." and so the IRS will not penalize employers for "fail[ing] to separately provide on that statement the total amount of qualified overtime compensation."[7] The IRS made clear, however, that "[t]his relief applies only for taxable year 2025."[8]

As a result, SMACNA contractors do not need to issue any new categories of earnings on 2025 IRS Form W-2s.

FAQ-6 Should SMACNA contractors provide overtime compensation information to employees in 2025?

[6] IRS Notice 2025-69 at 1.

[7] IRS Notice 2025-62 at 8-9.

[8] IRS Notice 2025-62 at 1.

While reporting "qualified overtime" is not required for 2025, the IRS encourages employers to provide employees with a separate accounting of "overtime compensation" to assist the employee with calculating any available deduction:

> ***While not a requirement to receive the penalty relief provided in this notice***, employers and payors are ***encouraged*** to provide employees and payees with separate accountings of overtime compensation such that the employee or payee has the information the employee or payee needs to determine whether the employee or payee can claim the deduction for qualified overtime compensation under section 225 for taxable year 2025. Employers and payors can make such information available to their employees and payees by including it in box 14 of the employee's Form W-2, or through an online portal, additional written statements furnished to the employees or payees, or other secure methods.[9]

FAQ-7 If SMACNA contractors do not report "qualified overtime" in 2025, how will employees determine their deduction?

For 2025, employees will have to rely on pay records – pay stubs, earnings summaries, timecards, or payroll logs – to compute their "qualified overtime."

IRS Notice 2025-69 authorizes employees to use the information they have:

> Individuals may use the amounts reported as overtime compensation on earnings statements, pay stubs, and other documentation . . . to calculate the FLSA Overtime Premium for 2025.[10]

Because workers will be using their own records, calculation methods may vary. Some may divide overtime by three (for time-and-a-half) or by four (for double-time) depending on how their payroll system aggregates overtime earnings.

The IRS guidance provides the following examples:

> **Example 1.** Individual A has access to a payroll system that shows totals of amounts paid to Individual A in 2025, including the FLSA Overtime Premium paid during 2025. In 2025, Individual A is last paid wages on December 22, 2025, for the payroll period beginning on November 30, 2025, and ending on December 13, 2025.[] The payroll system shows $5,000 as the "overtime premium" that Individual A was paid during 2025. For purposes of determining the amount of qualified overtime compensation received in tax year 2025, Individual A may include $5,000 (the FLSA Overtime Premium).
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> **Example 2.** Assume the same facts as in example 1 except that Individual A's pay stub, shows a total "overtime" amount of $15,000 (which is the FLSA Overtime

[9] IRS Notice 2025-69 at 13.

[10] IRS Notice 2025-69 at 26.

Premium combined with the portion of the individual's regular wages for the hours worked over 40 in a workweek). For purposes of determining the amount of qualified overtime compensation received in tax year 2025, the individual may include $5,000 (the FLSA Overtime Premium, computed by dividing $15,000 by 3).

Example 3. Individual B's employer has a practice of paying overtime at a rate of two times an employee's regular rate of pay and Individual B was paid $20,000 in overtime pay under that practice, although 29 USC § 207 only requires Individual B's employer to pay at one and one-half times the employee's regular rate. Individual B's last pay stub for 2025 shows "overtime premium" of $10,000 paid in 2025 (which is Individual B's overtime premium paid at a rate of two times the individual's regular rate). For purposes of determining the amount of qualified overtime compensation received in tax year 2025, Individual B may include $5,000 ($10,000 divided by 2).

Example 4. Assume the same facts as in example 3 except that Individual B's pay stub shows a total "overtime" amount of $20,000 (which is Individual B's overtime premium paid at a rate of two times the individual's regular rate of pay combined with the portion of the individual's regular wages for the hours worked over 40 in a workweek). For purposes of determining the amount of qualified overtime compensation received in tax year 2025, Individual B may include $5,000 (the FLSA Overtime Premium, computed by dividing $20,000 by 4).[11]

FAQ-8 What changes in 2026?

Beginning with the 2026 tax year, employers must separately report "qualified overtime compensation" on IRS Form W-2s.

As the IRS explains: "Forms W-2 . . . will be updated for tax year 2026 to provide separate reporting of . . . qualified overtime compensation."[12]

SMACNA contractors should therefore use the next 12 months to prepare their payroll systems for the new fields and ensure that they can calculate the FLSA-mandated overtime premium for employees' 2026 IRS Form W-2s.

[11] IRS Notice 2025-69 at 27-28.

[12] IRS Notice 2025-69 at 1.