

Guidance for Individual Taxpayers who received Qualified Tips or Qualified Overtime Compensation in 2025

Notice 2025-69

I. PURPOSE

This Notice provides guidance to individual taxpayers who are eligible for the federal income tax deductions for qualified tips or qualified overtime compensation for tax year 2025. These new deductions were added by Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA). As previously announced, and as part of the phased implementation of the OBBBA, there will be no changes to the 2025 Form W-2, Form 1099-NEC, Form 1099-MISC, or Form 1099-K to account for the new reporting requirements in the OBBBA.¹ As a result, employers and other payors will not be required to separately account for cash tips or qualified overtime compensation on those forms or the written statements (copies of the forms) furnished to individuals for 2025.² In the absence of this information reporting,

¹ See IRS News Release IR-2025-82 (Aug. 7, 2025). Forms W-2, 1099-NEC, 1099-MISC, and 1099-K will be updated for tax year 2026 to provide separate reporting of the employee's qualified tips and qualified overtime compensation.

² On November 5, 2025, the Internal Revenue Service (IRS) published Notice 2025-62, IRB 2025-48, which provides penalty relief from the new information reporting requirements for cash tips and qualified overtime compensation under the OBBBA to employers and other payors for not filing correct information returns and not providing correct payee statements to employees and other payees. Specifically, this notice provides relief from the penalty under section 6721 for failure to file correct information returns and the penalty under section 6722 for failure to furnish correct payee statements. This relief applies only for taxable year 2025. See IRS News Release IR-2025-110 (Nov. 5, 2025).

this Notice provides guidance for individual taxpayers on how to satisfy the requirements for the deductions, including how to determine the amount of the qualified tips or qualified overtime compensation, for tax year 2025. This Notice also provides transition relief for taxpayers regarding the requirement that qualified tips must not be received in the course of a trade or business that is a specified service trade or business. This Notice does not affect any rights or responsibilities regarding tips or overtime compensation under the Fair Labor Standards Act of 1938, as amended (FLSA).

II. BACKGROUND

Section 70201(a) of the OBBBA added new section 224 to the Internal Revenue Code (Code). In general, section 224 provides an income tax deduction for “qualified tips” that are received during the taxable year by individuals in an occupation that customarily and regularly received tips on or before December 31, 2024. Section 70201(b) of the OBBBA added the deduction provided by section 224 of the Code to the list of deductions used to determine taxable income in section 63(b).

Section 70202(a) of the OBBBA added new section 225 to the Code. In general, section 225 provides an income tax deduction for “qualified overtime compensation”, defined in section 225(c) as overtime compensation paid to an individual required under section 7 of the FLSA that is in excess of the regular rate at which the individual is employed.³ Section 70202(b) of the OBBBA added the deduction provided by section

³ The FLSA is codified at 29 USC §§ 201-219. Section 7 is found at 29 USC § 207.

225 of the Code to the list of deductions used to determine taxable income in section 63(b). Both deductions are available for tax years beginning after December 31, 2024, and ending before January 1, 2029.

A. No Tax on Tips under Section 224

Section 224(a) provides a deduction in an amount equal to the qualified tips received by an individual in a taxable year that are included on statements⁴ furnished to the individual pursuant to section 6041(d)(3), section 6041A(e)(3), section 6050W(f)(2), or section 6051(a)(18), or are reported by the taxpayer on Form 4137 (or successor). Section 224(b)(1) limits the amount of the deduction to an amount not to exceed \$25,000 in a taxable year. Section 224(b)(2) further limits the amount based on a taxpayer's modified adjusted gross income (MAGI), which is a taxpayer's adjusted gross income for the tax year increased by any amount excluded from gross income under section 911, section 931, or section 933. The deduction phases out for taxpayers with MAGI over \$150,000 (\$300,000 for joint filers).

Section 224(c) provides that, in the case of qualified tips received by an individual during any taxable year in the course of a trade or business (other than the trade or business of performing services as an employee) of such individual, such qualified tips are taken into account under section 224(a) only to the extent that the

⁴ The House Budget Committee report on the OBBBA, H. Rept. 119-106, at 1503 (2025), specifies that the tip amounts included on reporting statements (for example, Form 1099) must be separately accounted for on the statements in order to take the deduction. The OBBBA revisions to sections 6041, 6041A, and 6050W further require the statements to provide either a separate accounting or the portion of the amount designated as tips. The OBBBA revision to section 6051 follows the existing statutory structure of enumerating each separate category of amounts to be listed on the Form W-2.

gross income for the taxpayer from such trade or business for such taxable year (including such qualified tips) exceeds the sum of the deductions allocable to the trade or business in which such qualified tips are received by the individual for such taxable year.

Section 224(d)(1) defines “qualified tips” as cash tips received by an individual in an occupation that customarily and regularly received tips on or before December 31, 2024, as provided by the Secretary.⁵ Section 224(d)(2) further requires that qualified tips not include any amount received by an individual unless the amount:

- Is paid voluntarily without any consequence in the event of nonpayment, is not the subject of negotiation, and is determined by the payor;
- Is not received in the course of a trade or business that is a specified service trade or business as defined in section 199A(d)(2); and
- Satisfies such other requirements as may be established by the Secretary in regulations or other guidance.

Section 224(d)(2) further provides that an individual receiving tips in the trade or business of performing services as an employee is treated as receiving tips in the course of a trade or business that is a specified service trade or business as defined in section 199A(d)(2) if the trade or business of the employer in which they are employed is a specified service trade or business.

⁵ Under section 7701(a)(11)(B), Secretary means the Secretary of the Treasury or his delegate.

Section 224(d)(3) provides that for purposes of section 224(d)(1), the term “cash tips” includes tips received from customers that are paid in cash or charged and, in the case of an employee, tips received under any tip-sharing arrangement.

Section 224(e) provides that no deduction is allowed under section 224 unless the taxpayer includes on the tax return for the taxable year such individual’s social security number as defined in section 24(h)(7) of the Code.

Section 224(f) provides that if the taxpayer is a married individual (within the meaning of section 7703), section 224 applies only if the taxpayer and the taxpayer’s spouse file a joint return for the taxable year. That is, the deduction is not available for a taxpayer who is married and files separately.

Section 70201(h) of the OBBBA instructs the Secretary to publish a list of occupations that customarily and regularly received tips on or before December 31, 2024, for purposes of section 224(d)(1) of the Code no later than 90 days after the date the OBBBA was enacted (July 4, 2025). On September 19, 2025, a notice of proposed rulemaking (NPRM) (REG-110032-25) was published in the Federal Register (90 FR 45340) that includes a proposed list of occupations that customarily and regularly received tips on or before December 31, 2024, and a proposed definition of qualified tips for purposes of the income tax deduction for qualified tips. The NPRM states that taxpayers may rely on the proposed regulations, including the proposed list of eligible occupations, for taxable years beginning after December 31, 2024, and on or before the date the regulations are published as final regulations in the Federal Register, provided

that taxpayers follow the proposed regulations in their entirety and in a consistent manner.

Section 70201(f) of the OBBBA added to the information reporting requirements of the Code for employers and other payors making payments of cash tips by:

(1) amending section 6041(a) of the Code to require a payor to include on the information return filed with the IRS a separate accounting of any such amounts reasonably designated as cash tips and the occupation described in section 224(d)(1) of the person receiving such tips;

(2) adding new paragraph (d)(3) to section 6041 to provide that, in the case of compensation to non-employees, a payor is required to include on the written statement furnished to the payee the portion of payments reasonably designated as cash tips and the occupation described in section 224(d)(1) of the person receiving such tips;

(3) amending section 6041A(a) to require a payor to include on the information return filed with the IRS a separate accounting of any such amounts reasonably designated as cash tips and the occupation described in section 224(d)(1) of the person receiving such tips;

(4) adding new paragraph (e)(3) to section 6041A to provide that, in the case of section 6041A(a), a payor is required to include on the written statement furnished to the payee the portion of payments reasonably designated as cash tips and the occupation described in section 224(d)(1) of the person receiving such tips;

(5) adding new paragraph (a)(3) to section 6050W to provide that, in the case of a third party settlement organization (TPSO), the TPSO must include on the information return filed with the IRS the portion of reportable payment transactions that have been reasonably designated by payors as cash tips and the occupation described in section 224(d)(1) of the person receiving such tips;

(6) amending section 6050W(f)(2) to require a TPSO to include on the written statement furnished to the payee a separate accounting of any such amounts that have been reasonably designated by payors as cash tips and the occupation described in section 224(d)(1) of the person receiving such tips; and

(7) adding new paragraph (a)(18) to section 6051 to provide that an employer must include on the written statement furnished to the employee the total amount of cash tips reported by the employee under section 6053(a) and the occupation described in section 224(d)(1) of such person.

Section 70201(k) of the OBBBA provides a transition rule for persons required to file returns or furnish statements under section 6041(a), 6041(d)(3), 6041A(a), 6041A(e)(3), 6050W(a), or 6050W(f)(2) of the Code for cash tips required to be reported for periods before January 1, 2026. Under this transition rule, those persons may approximate a separate accounting of amounts designated as cash tips by any reasonable method specified by the Secretary.

Section 6053(a) requires every employee who, in the course of the employee's employment by an employer, receives in any calendar month tips that are wages (as

defined in section 3121(a) for Federal Insurance Contributions Act (FICA) tax purposes or section 3401(a) for income tax withholding purposes)⁶ to report all those tips in one or more written statements furnished to the employer on or before the tenth day of the following month. The employee is to furnish the statements in the form and manner prescribed by the IRS. See § 31.6053-1(b) of the Employment Tax Regulations.

B. No Tax on Overtime under Section 225

Section 225(a) provides for a deduction in an amount equal to the qualified overtime compensation received by an individual in a tax year that is included on statements furnished to the individual pursuant to section 6041(d)(4) or 6051(a)(19). Section 225(b)(1) limits this deduction to an amount not to exceed \$12,500 per return (\$25,000 in the case of a joint return) in a tax year. Section 225(b)(2) further limits the amount of the deduction based on a taxpayer's MAGI, which is a taxpayer's adjusted gross income for the tax year increased by any amount excluded from gross income under section 911, section 931, or section 933. The deduction phases out for taxpayers with MAGI over \$150,000 (\$300,000 for joint filers).

Section 225(c)(1) defines "qualified overtime compensation" as overtime compensation paid to an individual required under 29 USC § 207 that is in excess of the regular rate at which the individual is employed. The FLSA defines the regular rate as including "all remuneration for employment paid to, or on behalf of, the employee",

⁶ See *also* sections 3121(a)(12) and 3401(a)(16) of the Code (generally excluding from wages non-cash tips and tips under \$20 per month), sections 3121(q) and 3401(f) (specifically including tips in wages), and the regulations thereunder.

subject to eight exclusions established in 29 USC § 207(e). Part 778 of CFR title 29 contains the regulations addressing the calculation of the regular rate of pay for overtime compensation under 29 USC § 207. Individuals covered⁷ by the FLSA generally must receive overtime pay for hours worked in excess of 40 in a workweek at a rate not less than one and one-half times their regular rate of pay. Generally, the amount of overtime pay due to an individual is based on the individual's regular rate of pay⁸ and the number of hours worked in a workweek.⁹ Certain individuals are statutorily exempt from the FLSA's overtime requirements.¹⁰ The Code and the FLSA use different definitions of "employee." Therefore, it is possible (but not common) for a non-employee under the Code to be covered as an employee under the FLSA.

Under the FLSA, the overtime requirements are different for certain classes of employers and employees (as defined in the FLSA) under specific circumstances. For

⁷ See U.S. Department of Labor (DOL), Wage and Hour Division (WHD), [Fact Sheet #14: Coverage Under the Fair Labor Standards Act \(FLSA\) | U.S. Department of Labor](https://www.dol.gov/agencies/whd/fact-sheets/14-flsa-coverage), <https://www.dol.gov/agencies/whd/fact-sheets/14-flsa-coverage> (last visited Oct. 28, 2025).

⁸ Earnings may be determined on a piece-rate, salary, commission, or some other basis, but in all such cases the overtime pay due must be computed on the basis of the average hourly rate derived from such earnings. This rate is calculated by dividing the total pay for employment (except for the statutory exclusions) in any workweek by the total number of hours actually worked. See DOL, WHD, [Fact Sheet #56A: Overview of the Regular Rate of Pay Under the Fair Labor Standards Act \(FLSA\) | U.S. Department of Labor](https://www.dol.gov/agencies/whd/fact-sheets/56a-regular-rate), <https://www.dol.gov/agencies/whd/fact-sheets/56a-regular-rate> (last visited Oct. 28, 2025).

⁹ The FLSA applies on a workweek basis. An employee's workweek is a fixed and regularly recurring period of 168 hours -- seven consecutive 24-hour periods. It need not coincide with the calendar week and may begin on any day and at any hour of the day. See DOL, WHD, [Fact Sheet #23: Overtime Pay Requirements of the FLSA | U.S. Department of Labor](https://www.dol.gov/agencies/whd/fact-sheets/23-flsa-overtime-pay), <https://www.dol.gov/agencies/whd/fact-sheets/23-flsa-overtime-pay> (last visited Oct. 28, 2025).

¹⁰ See, e.g., 29 USC 207(i), 213. Whether an individual is exempted under the FLSA is a fact-specific determination that depends on the individual's occupation, work activities, and/or earnings. More information on exemptions from the FLSA is available at [WHD Fact Sheets | U.S. Department of Labor](https://www.dol.gov/agencies/whd/fact-sheets), <https://www.dol.gov/agencies/whd/fact-sheets> (last visited Oct. 28, 2025).

example, 29 USC § 207(k) allows overtime for public sector employees in fire protection and law enforcement to be based on a work period longer than a standard 40-hour workweek in certain circumstances, and subsection 29 USC § 207(j) allows hospitals and certain residential care facilities to adopt agreements with their employees in certain circumstances to pay one-and-one-half times overtime rates for all hours worked over eight in any workday or over 80 in a 14-day work period, whichever is the greater number of overtime hours. The FLSA also permits employers to satisfy the overtime pay requirements with (1) certain payments creditable under 29 USC § 207(h); (2) paid compensatory time off in certain circumstances by a public agency which is a State, a political subdivision of a State or an interstate governmental agency under 29 USC § 207(o); and (3) alternative rate structures under 29 USC § 207(g).

Some employers or other service-recipients, on their own initiative, under a collective bargaining agreement with a labor union, and/or under State law, may provide overtime pay that is not required by 29 USC § 207. For example, an employer may choose to pay a higher overtime amount than the one and one-half times an individual's regular rate of pay that is generally required by the FLSA (e.g., the employer may choose to pay double time for hours worked over 40 in a workweek) or they may choose to pay employees an extra amount to work on weekends or holidays.¹¹ In such cases,

¹¹ Amounts for which the employer can and does claim a credit under 29 USC § 207(h) to satisfy 29 USC § 207(a) may constitute qualified overtime compensation (although the credit effectively offsets other qualified overtime compensation). Individuals may consider requesting information from their employer for purposes of calculating this amount. See *also* Fact Sheet #21: Recordkeeping Requirements under the Fair Labor Standards Act (FLSA) | U.S. Department of Labor regarding employer's recordkeeping

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.

Section 225(c)(2) of the Code excludes from the definition of qualified overtime compensation any qualified tips as defined in section 224(d) of the Code.

Section 225(d) provides that no deduction is allowed under section 225 unless the taxpayer includes on the return of tax for the tax year such individual's social security number as defined in section 24(h)(7) of the Code.

Section 225(e) provides that if the taxpayer is a married individual (within the meaning of section 7703), section 225 applies only if the taxpayer and the taxpayer's spouse file a joint return for the tax year. That is, the deduction is not available for a taxpayer who is married and files separately.

Section 70202(c) of the OBBBA added to the information reporting requirements of the Code for employers and certain other payors for certain payments of qualified overtime compensation by:

(1) adding new paragraph (a)(19) to section 6051 of the Code to provide that an employer must include on the written statement furnished to the employee the total amount of qualified overtime compensation (as defined in section 225(c)),

requirements, <https://www.dol.gov/agencies/whd/fact-sheets/21-flsa-recordkeeping> (last visited Oct. 28, 2025).

(2) amending section 6041(a) to require a payor to include on the information return filed with the IRS a separate accounting of any amount of qualified overtime compensation (as defined in section 225(c)), and

(3) adding new paragraph (d)(4) to section 6041 to provide that a payor is required to include on the written statement furnished to the payee the portion of payments that are qualified overtime compensation (as defined in section 225(c)).

Section 70202(h) of the OBBBA provides a transition rule for persons required to file returns or furnish statements under section 6051(a)(19), 6041(a), or 6041(d)(4) of the Code for qualified overtime compensation required to be reported for periods before January 1, 2026. Under this transition rule, those persons may approximate a separate accounting of amounts designated as qualified overtime compensation by any reasonable method specified by the Secretary.

III. GUIDANCE FOR TAX YEAR 2025

A. Qualified Tips

1. Determining the amount of qualified tips received by employees

Under Section 224(a), an employee may deduct an amount equal to the qualified tips received during the taxable year and included on a statement furnished to the employee (a Form W-2) or reported by the employee on Form 4137, subject to certain limitations. Section 6051(a)(18) requires employers to include the total amount of cash tips reported by the employee to the employer and the employee's occupation described in section 224(d)(1) on the Form W-2. Only cash tips separately accounted

for on the Form W-2 or reported on the Form 4137 are included in calculating the deduction.

As noted above, the 2025 Form W-2 has not been modified to account for the new tips reporting requirements. As a result, employers are not required to separately account for cash tips on the written statements furnished to individuals for 2025.

Therefore, the Department of the Treasury (Treasury Department) and the IRS have determined that, for purposes of satisfying the requirements of section 224(a) for tax year 2025, an employee may (1) treat the section 224(a) requirement that qualified tips be included on a statement furnished to the employee pursuant to section 6051(a)(18) as satisfied if the employee's cash tips are properly reported on the employee's Form W-2, without regard to the requirements of section 6051(a)(18) (to separately account for the total amount of cash tips reported by the employee under section 6053(a)), and (2) calculate the amount of qualified tips (subject to the other limitations and requirements for qualified tips in section 224) for tax year 2025 as follows:

- 1) Use the total amount of social security tips reported in box 7 of the Form W-2;
- 2) Use the total amount of tips reported by the employee to the employer on all Forms 4070, *Employee's Report of Tips to Employer* (or any similar substitute form used to monthly report tips to the employer); or¹²
- 3) If an employer voluntarily chooses to report the amount of an employee's cash

¹² If the combined total of the amounts in boxes 3 and 7 of the employee's Form W-2 is equal to \$176,100, the amount in box 7 may not include all the employee's cash tips. In this instance, the employee should consider reviewing the Forms 4070 they used to report tips to their employer.

tips in box 14 of Form W-2 (or on a separate statement), the employee may use this amount in determining the amount of qualified tips for tax year 2025.

- 4) In addition to these three options, employees may also include any amount listed on line 4 of the 2025 Form 4137 filed with the employee's 2025 income tax return (and included as income on that return).

Although the occupation of an employee receiving tips may not appear on the Form W-2 furnished to the employee in 2025, the employee is still responsible for determining whether the tips received by the employee were received in an occupation that customarily and regularly received tips on or before December 31, 2024, as provided by the Secretary.¹³ See 2025 Form 1040 instructions. Some employers may choose to provide information on an employee's occupation or other relevant information to employees using box 14 of Form W-2, in which case employees may rely on that information.

The Treasury Department and the IRS recognize that the deduction for qualified tips is a newly enacted provision and that employees receiving tips are determining their eligibility for the deduction for the first time. The Treasury Department and the IRS understand that it may be particularly difficult for employees to determine whether their tips were received in the course of a specified service trade or business, since section

¹³ Taxpayers claiming the deduction under section 224 on their tax return must demonstrate they meet the requirements of section 224 and establish that they are entitled to the deduction as well as determine the appropriate amount of the deduction. Taxpayers must maintain adequate books and records to substantiate both their eligibility for and the amount of any deduction claimed. See § 6001; Treas. Reg. § 1.6001-1; See *generally* Publication 17, pp. 17-18.

224(d)(2) provides that this determination turns on whether the trade or business of their employer in the course of which they receive tips is a specified service trade or business. Reporting by the employer regarding the employer's specified service trade or business status would be helpful both to assist employees in determining whether they are eligible for the tips deduction and to the IRS in administering section 224. However, in order to implement such information reporting, employers with employees who receive tips will have to make a determination as to whether their trade or business in the course of which an employee receives tips is a specified service trade or business, and many of these employers, a significant number of which are small businesses, have not previously had to make such a determination. Given these circumstances, the Treasury Department and the IRS believe that additional guidance is needed to assist employees and employers in determining whether an employer's trade or business is a specified service trade or business. Employees and employers will also need additional time once guidance is issued to understand and implement the guidance. Accordingly, in the interest of sound tax administration, there will be a transition period for purposes of IRS enforcement and administration with regard to the specified service trade or business requirement. Specifically, until January 1 of the first calendar year following the issuance of final regulations regarding the determination of whether a trade or business is a specified service trade or business for purposes of section 224 and associated employer information reporting, the IRS will treat the employee as having received tips in the course of a trade or business that is not a

specified service trade or business if the employee is in an occupation that customarily and regularly received tips on or before December 31, 2024, as provided by the Secretary. The Treasury Department and the IRS intend to issue proposed regulations and solicit public comment on these issues before publishing final regulations.

2. Determining the amount of qualified tips for non-employees

Under section 224(a) an individual may deduct an amount equal to the qualified tips received as a non-employee during the taxable year and included on a statement furnished to the individual (a Form 1099-MISC, 1099-NEC, or 1099-K), subject to certain limitations. Under sections 6041(d)(3), 6041A(e)(3), and 6050W(f)(2), payors must include on the applicable Form 1099 the portion of (or a separate accounting of) payments that have been reasonably designated as cash tips and the occupation described in section 224(d)(1) of the individual receiving the tips. Only cash tips separately accounted for on the applicable Form 1099 are included in calculating the deduction.

However, for tax year 2025, a separate accounting of cash tips received by a non-employee will not appear on the Form 1099 furnished to the non-employee. Therefore, the Treasury Department and the IRS have determined that, for purposes of satisfying the requirements of section 224(a) for tax year 2025, a non-employee may (1) treat the section 224(a) requirement that qualified tips be included on a statement furnished pursuant to the requirements of sections 6041(d)(3), 6041A(e)(3), or 6050W(f)(2) as satisfied if the non-employee's cash tips are included in the total

amounts reported as other income on the Form 1099-MISC, nonemployee compensation on the Form 1099-NEC, or payment card/third-party network transactions on the Form 1099-K furnished to the non-employee, and (2) calculate the amount of qualified tips (subject to the other limitations and requirements for qualified tips under section 224) using earnings statements or other documentation such as receipts, point-of-sale system reports, daily tip logs, third party settlement organization records, or other documentary evidence that corroborates the calculation of the total amount of tips that are qualified tips for tax year 2025. For example, if a payor issues an earnings statement to contractors who provide services to the payor, the contractor may use the amount designated as tips by the payor on the earnings statement in determining the amount of qualified tips, provided the other limitations and requirements for qualified tips are satisfied, and provided the contractor maintains a copy of the earnings statement in accordance with IRS recordkeeping requirements.¹⁴ Non-employee payees may also consult with the payor regarding any available information that may assist in determining and documenting the amount of qualified tips.

Although the occupation of a non-employee payee receiving tips will not appear on a 2025 Form 1099 furnished to the non-employee payee, the payee is still responsible for determining whether the tips received by the payee were received in an occupation that customarily and regularly received tips on or before December 31, 2024, as provided by the Secretary

¹⁴ See id.

As with employees receiving tips, the Treasury Department and the IRS recognize that most non-employees receiving tips are determining their eligibility for the deduction for the first time. Similarly, the Treasury Department and the IRS understand that it may be difficult for these non-employees to determine whether their tips were received in connection with a specified service trade or business and that additional guidance is needed to assist non-employees in making that determination. Accordingly, the transition relief described above with regard to whether employee tips were received in connection with a specified service trade or business will also apply to non-employees.

3. Examples

The following examples are intended to assist taxpayers in determining the amount of qualified tips under section 224(d) and do not address other limitations on the deduction allowed under section 224(a), including the overall limit on deductions in section 224(b)(1), the MAGI limit in section 224(b)(2), and the social security number requirement in section 224(e). See 2025 Form 1040 instructions for more details on how to apply these limitations. In each example, unless otherwise indicated, assume that (1) the individual's occupation is one that customarily and regularly received tips on or before December 31, 2024, and (2) all other requirements for claiming the deduction are satisfied.

Example 1. Employee A is a restaurant server. The amount reported in A's Form W-2 box 7 is \$18,000 of social security tips. A did not report any additional tips on Form

4137. A may use \$18,000 in determining the amount of qualified tips for tax year 2025.

Example 2. Employee B is a bartender. During tax year 2025, B reports \$20,000 in tips to B's employer on Form 4070. B's 2025 Form W-2 reports \$200,000 in box 1, an amount in excess of the social security wage base, and \$15,000 in box 7. Additionally, B reports \$4,000 of unreported tips on Form 4137, line 4, and includes this amount in income on B's Form 1040. B may use either the \$15,000 in box 7 of the Form W-2, or the \$20,000 of tips reported to B's employer on Forms 4070 in determining the amount of qualified tips for tax year 2025. Regardless of the option chosen, B may also include the \$4,000 of unreported tips from Form 4137, line 4, in determining the amount of qualified tips.

Example 3. Individual D is a self-employed travel guide who operates as a sole proprietor. In 2025, Individual D receives \$7,000 in tips from customers paid through a third-party settlement organization as defined in section 6050W(b)(3). For tax year 2025, Individual D receives a Form 1099-K from an online booking platform that is a third-party settlement organization as defined in section 6050W(b)(3) showing \$55,000 of total payments. The Form 1099-K does not separately identify the tips. However, Individual D keeps a log of each tour that shows the date, customer, and tip amount received. Because Individual D has daily tip logs substantiating the \$7,000 tip amount, D may use the \$7,000 tip amount in determining qualified tips for tax year 2025.

B. Qualified Overtime Compensation

1. Determining whether an individual is covered and nonexempt

Section 225(c) of the Code limits qualified overtime compensation to overtime compensation in excess of the individual's regular rate that is required and paid under 29 USC § 207. In order for overtime to be required under 29 USC § 207, it must, among other requirements, be paid to an individual who is both covered by and not exempt from the FLSA (an FLSA-eligible employee).¹⁵ Thus, an individual who is ineligible for Federal overtime (an FLSA-ineligible employee) will generally not be paid overtime. However, some FLSA-ineligible employees are eligible for overtime under State law or are paid premium rates for certain work for other reasons. Overtime compensation paid to FLSA-ineligible employees is not qualified overtime compensation within the meaning of section 225(c) with respect to such employment, regardless of applicable State law provisions or other circumstances causing these amounts to be paid.

Because employers and other payors will not be required to separately account for qualified overtime compensation, a separate accounting of qualified overtime compensation will not appear on written statements furnished to individuals for tax year 2025 absent an entry in box 14 of Form W-2 or a separate statement containing that information. Consequently, individuals who are not furnished a separate accounting of qualified overtime compensation in box 14 of Form W-2 (or on a separate statement)

¹⁵ For more information on coverage and exemption under the FLSA, see WHD Fact Sheets | U.S. Department of Labor, <https://www.dol.gov/agencies/whd/fact-sheets> (last visited Oct. 28, 2025).

must make a reasonable effort to determine whether they are considered FLSA-eligible employees, which may include asking their employers or other service recipients about their status under the FLSA.

2. Determining the amount of qualified overtime compensation

Under section 225(a), an individual may deduct an amount equal to the qualified overtime compensation received during the taxable year and included on a statement furnished to the individual (a Form W-2, Form 1099-NEC, or Form 1099-MISC). Under section 6051(a)(19), employers must include on the Form W-2 the total amount of qualified overtime compensation. Similarly, under section 6041(d)(4), payors must include on the applicable Form 1099 the portion of payments that are qualified overtime compensation. For tax year 2025, a separate accounting of qualified overtime compensation may not appear on the written statement furnished to the individual. Some employers may choose to report the amount of qualified overtime compensation to employees using box 14 of Form W-2 or on a separate statement, in which case employees may treat the separate accounting requirement as satisfied for purposes of their eligibility for the deduction and use this amount for purposes of determining the deduction under section 225. If the amount of qualified overtime compensation is not provided by the employer in box 14 of the Form W-2 or on a separate statement, the Treasury Department and the IRS have determined that, for tax year 2025, an FLSA-eligible employee may (1) treat the separate accounting requirement as satisfied if the qualified overtime compensation is properly reported on the individual's Form W-2,

Form 1099-NEC, or Form 1099-MISC, without regard to the requirements of section 6051(a)(19) (to separately account for the amount of qualified overtime compensation), copies of which are furnished to the individual, and (2) base the determination of the amount of qualified overtime compensation (subject to the other limitations and requirements for qualified overtime compensation in section 225 of the Code) on other documentation such as earnings or pay statements, invoices, or similar statements that support the determination, using a reasonable method described below to determine the amount of the qualified overtime compensation. Individuals who had multiple employers during 2025 may use different methods for each employer.

Individuals may use any of the following reasonable methods for purposes of determining the amount of qualified overtime compensation under section 225(c) for tax year 2025:

(A) If the individual is paid overtime compensation at a rate of one and one-half times the individual's regular rate for hours worked in excess of 40 hours in a workweek, as generally required by 29 USC § 207(a), and receives a statement covering the entire 2025 tax year that separately accounts for the overtime premium, which is generally, the "half" portion of the "one and one-half times" amount (the FLSA Overtime Premium), the individual may use that separate amount. See example 1.

(B) If the individual is paid overtime compensation at a rate of one and one-half times the individual's regular rate for hours worked in excess of 40 hours in a workweek, as generally required by 29 USC § 207(a), and receives a statement covering the entire

2025 tax year that does not separately account for the FLSA Overtime Premium, but does include an entry showing the aggregate dollar amount of the FLSA Overtime Premium combined with the portion of the individual's regular wages for the hours worked over 40 in a workweek, the individual may use one-third of that aggregate dollar amount. See example 2.

(C) If the individual is paid overtime compensation at a rate in excess of one and one-half times the individual's regular rate for hours worked in excess of 40 hours in a workweek, as generally required by 29 USC § 207(a) (for example, two times the individual's regular rate), and receives a statement covering the entire 2025 tax year that separately accounts for the portion in excess of the employee's regular rate, the individual may multiply that separate amount by an appropriate fraction to approximate the FLSA Overtime Premium (for example, if overtime is paid at a rate of two times the regular rate, the appropriate fraction is one-half) and use the product. See example 3.

(D) If the individual is paid overtime compensation at a rate in excess of one and one-half times the individual's regular rate for hours worked in excess of 40 hours in a workweek, as generally required by 29 USC § 207(a) (for example, two times the individual's regular rate), and receives a statement that does not separately account for the FLSA Overtime Premium but does include an entry showing the aggregate dollar amount of overtime compensation at that higher rate for the hours worked over 40 hours combined with the portion of the individual's regular wages for the hours worked over 40 in a workweek covering the entire 2025 tax year, then the individual may multiply the

aggregate dollar amount by an appropriately smaller fraction (for example, if overtime is paid at a rate of two times the regular rate, the appropriate fraction is one-fourth) and use the product. See example 4.

(E) If the method for determining the amount of qualified overtime compensation described in paragraph (B) or (D) above would result in underestimating the employee's qualified overtime compensation (for example, because the individual's regular rate is increased by a nondiscretionary bonus), the individual may adjust the method described in paragraph (B) or (D) to take the difference into account.

(F) If the individual is paid overtime compensation at a rate described in paragraphs (A)-(E) above but does not receive any statement covering the entire 2025 tax year separately accounting for the FLSA Overtime Premium, the aggregate dollar amount of FLSA overtime, or the aggregate dollar amount of overtime compensation paid at a higher rate, the individual may use a reasonable method that takes into account (1) the regular rate under 29 USC § 207(e) paid to the individual by the employer (or a reasonable approximation of this amount), and (2) the individual's hours of service in excess of 40 hours in a workweek (or a reasonable approximation if the individual does not have records of actual hours of service) for purposes of determining the amount of qualified overtime compensation under section 225(c). A reasonable method includes requesting information from the individual's employer and using the information

provided by the employer for purposes of calculating the deduction.¹⁶

(G) If an individual's employer satisfies the requirements under 29 USC § 207 by operation of another subsection of the FLSA other than 29 USC § 207(a) (including but not limited to public sector employees in fire protection and law enforcement (29 USC § 207(k))¹⁷, employees of a political subdivision of a State or an interstate governmental agency who receives compensatory time off in certain circumstances in lieu of cash overtime compensation (29 USC § 207(o))¹⁸, and employees of hospitals or certain residential care facilities (29 USC § 207(j)),¹⁹ the individual must compute the amount of overtime compensation by operation of the different overtime rules used in the relevant provision of 29 USC § 207 that apply to the individual and may use any reasonable method contained in this notice that takes those alternative overtime rules into account. See examples 5 and 6.

The Treasury Department and the IRS are aware that documents such as earnings statements and pay stubs take a variety of forms, and employers and other service-recipients provide overtime compensation in a variety of ways (including, for example,

¹⁶ See [Fact Sheet #21: Recordkeeping Requirements under the Fair Labor Standards Act \(FLSA\) | U.S. Department of Labor](https://www.dol.gov/agencies/whd/fact-sheets/21-flsa-recordkeeping), <https://www.dol.gov/agencies/whd/fact-sheets/21-flsa-recordkeeping> (last visited Oct. 28, 2025) regarding employer's recordkeeping requirements.

¹⁷ See [Fact Sheet #8: Law Enforcement and Fire Protection Employees Under the Fair Labor Standards Act \(FLSA\) | U.S. Department of Labor](https://www.dol.gov/agencies/whd/fact-sheets/8-flsa-police-firefighters), <https://www.dol.gov/agencies/whd/fact-sheets/8-flsa-police-firefighters> (last visited Oct. 28, 2025).

¹⁸ Amounts described in 29 USC § 207(o) must be properly included on the employee's Form W-2 to be considered qualified overtime compensation. Accordingly, individuals receiving compensatory time under 29 USC § 207(o)(3)(B) in satisfaction of overtime amounts due under 29 USC § 207 may take the overtime amount into account for purposes of section 225 only in the year the compensatory time is paid.

¹⁹ See [Fact Sheet #33: Residential Care Facilities \(Group Homes\) Under the Fair Labor Standards Act | U.S. Department of Labor](https://www.dol.gov/agencies/whd/fact-sheets/33-flsa-group-homes), <https://www.dol.gov/agencies/whd/fact-sheets/33-flsa-group-homes> (last visited Oct. 28, 2025).

combining State-required and FLSA-required overtime). Individuals may use the amounts reported as overtime compensation on earnings statements, pay stubs, and other documentation provided by payors to calculate the FLSA Overtime Premium for 2025. For example, individuals may approximate the amounts of FLSA Overtime Premium by using overtime amounts reported on a pay statement or similar document that covers all wages paid in 2025. See Example 1. In all cases, individuals must maintain copies of any documents they rely on in accordance with IRS recordkeeping requirements.²⁰

3. Examples

The following examples illustrate how an individual may determine the amount of qualified overtime compensation that may be allowed as an income tax deduction under section 225 of the Code for tax year 2025 and are not intended to address the full universe of situations in which overtime payments may be required under the FLSA. These examples are intended to assist a taxpayer in determining the amount of qualified overtime under section 225(c) and do not address other limitations on the deduction allowed under section 225(a), including the overall limit on deductions in section 224(b)(1), the MAGI limit in section 225(b)(2), and the social security number requirement in section 225(d). See 2025 Form 1040 instructions for more details on how to apply these limitations. The examples assume: (1) each individual is furnished a

²⁰ Taxpayers claiming the deduction under section 225 on their tax return must demonstrate they meet the requirements of section 225 and establish that they are entitled to the deduction as well as determine the appropriate amount of the deduction. See *also* § 6001; Treas. Reg. § 1.6001-1; see *generally* Publication 17, pp. 17-18.

Form W-2 without a discrete entry reporting qualified overtime in box 14 or on a separate statement; (2) each individual is an FLSA-eligible employee; and (3) all other requirements for claiming the deduction are satisfied.

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, 2025.²¹ 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).

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 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

²¹ The employee’s earning statement relating to the payroll period beginning on December 14, 2025, and ending on December 27, 2025, shows amounts that are not actually paid until January 6, 2026. Thus, it would not include any FLSA Overtime Premium paid in 2025.

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).

Example 5. Individual C works in law enforcement and is paid \$15,000 of total annual overtime pay on a "work period" basis of 14 days that complies with section 207(k) of the FLSA.²² For purposes of determining the amount of qualified overtime compensation received in tax year 2025, Individual C may include \$5,000 (\$15,000 divided by 3).

Example 6. Individual D works for a State or local government agency that gives

²² See [Fact Sheet #8: Law Enforcement and Fire Protection Employees Under the Fair Labor Standards Act \(FLSA\) | U.S. Department of Labor](https://www.dol.gov/agencies/whd/fact-sheets/8-flsa-police-firefighters), <https://www.dol.gov/agencies/whd/fact-sheets/8-flsa-police-firefighters> (last visited Oct. 28, 2025).

compensatory time at a rate of one and one-half hours for each overtime hour worked under 29 USC 207(o). In 2025, Individual D was paid wages of \$4,500 with respect to compensatory time off taken in accordance with section 207(o). For purposes of determining the amount of qualified overtime compensation received in tax year 2025, Individual D may include \$1,500, one-third of these wages for purposes of determining qualified overtime compensation under section 225(c).

IV. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 USC 3501-3520) (PRA) generally requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

This Notice mentions collection requirements for taxpayers to keep records to substantiate their tax deductions for tax year 2025. These records are considered general tax records under 26 CFR 6001-1. General tax records are already approved by OMB under 1545-0074. Additionally, taxpayers report the deductions using Form 1040, which is already approved by OMB under 1545-0074. This Notice is not changing the already approved OMB collection.

The Notice mentions new information collection requirements for various forms in

tax year 2026. These collections will be submitted for OMB approval when the forms and their instructions are updated for tax year 2026.

V. APPLICABILITY DATE

This notice applies to the 2025 tax year.

VI. DRAFTING INFORMATION

The principal author of this notice is the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this notice, call (202) 317-6000 (not a toll-free call).