Municipal Association of South Carolina

South Carolina Municipal Human Resources Association MHRA

Legal Update: One Big Beautiful Bill and the First Amendment and Public Employees

November 14, 2025

Fred A. Williams, Esq.

Bettis Law Group, LLP
South Carolina's Labor & Employment Law Firm

3700 Forest Dr., Suite 500
Columbia, SC 29204
P. 803.799.9311
www.bettislawsc.com

One Big Beautiful Bill

- On July 4, 2025, President Donald Trump signed into law H.R. 1, the "One Big Beautiful Bill" (OBBB)
- The 870 page-bill covers nearly every sector of the American economy and extends many of the taxpayer-friendly provisions of the Tax Cuts and Jobs Act (TCJA), passed in President Trump's first term
- The Bill expands many provisions from the TCJA, impacting qualified small business stock, business income deductions, employee retention credits, and more

"THE ONE BIG BEAUTIFUL BILL"
Changes for tax year 2025

KBKG

Provison	"One Big Beautiful Bill"	Prior Law
Bonus Depreciation	100% Bonus - now permanent	40%
R&D Expensing (Section 174)	Full expensing for Domestic R&E expenses in the year they occur (foreign = 15 years)	Domestic expenses amortized & capitalized over 5 years (foreign = 15 years)
Manufacturing Deductions	100% Expensing for certain Manufacturing structures. 168(n)	N/A
179D	Sunsets for property with construction beginning after 6/30/2026	Max benefit of $5.81 per sq ft
45L	Sunsets for homes acquired after 6/30/2026	up to $5,000 per dwelling unit
SALT	$40,000 cap, phasing out at incomes >$500,000 married	$10,000 cap
Section 179	$2.5M expensing limit; $4M phase-out threshold; inflation indexing resets to 2024, effective for property placed in service after 12/31/2024	$1M expensing limit; $2.5M phase-out threshold, indexed for inflation (base year 2019)
PTET (Pass Through Entity Tax)	Allows pass-through entities to deduct state taxes at the entity level, bypassing the $40K SALT cap for owners	Allows pass-through entities to deduct state taxes at the entity level, bypassing the $10K SALT cap for owners
199A Flow-Through Deduction	20% - now permanent	20%
163j Interest Deductions	EBITDA Standard	EBIT Standard
Clean Electricity Production - 48E / 45Y	Terminates tax credits for projects where construction begins 12 months after enactment and are placed in service after 2027.	Projects eligible if placed in service through 2032
Advanced Manufacturing Credit	35%	25%
Estate Tax Exemption	$15M per individual ($30M married) - permanent Effective: 1/1/2026, with automatic inflation indexing	$13.99M per individual ($27.98M married) Sunset: Reverts 1/1/2026 to ~$6-7M (inflation-indexed)
Standard Deduction	$15,750 (single) / $31,500 (married)	$15,000 (single) / $30,000 (married)
Child Tax Credit	$2,200 per child (adjusted for inflation, prospectively)	$2,000 per child
No Tax on Tips and Overtime	Up to $25,000	N/A
Auto Loan Interest Deduction	Up to $10,000 for U.S. vehicles (phasing out >$100k single/$200k married)	N/A
Adoption Credit	$5,000 of current credit made refundable (adjusted for inflation, prospectively)	Up to $17,280, non-refundable
Deductions for Seniors	$6,000 for age 65+ (individuals), phase out > $75,000 single/$150,000 married	$1,600 for age 65+
1099-K	$20,000 and >200 transactions	$2,500

Deduction for Seniors

- Effective for 2025 through 2028, individuals who are age 65 and older may claim an additional deduction of $6,000
  - This new deduction is in addition to the current additional standard deduction for seniors under existing law
  - The $6,000 senior deduction is per eligible individual (i.e., $12,000 total for a married couple where both spouses qualify)
  - Deduction phases out for taxpayers with modified adjusted gross income over $75,000 ($150,000 for joint filers)

"No Tax on Car Loans" Deduction

- Effective for 2025 through 2028, individuals may deduct interest paid on a loan used to purchase a qualified vehicle, provided the vehicle is purchased for personal use and meets other eligibility criteria
-
  - Lease payments do not qualify
  - Maximum annual deduction is $10,000
  - Deduction phases out for taxpayers with modified adjusted gross income over $100,000 ($200,000 for joint filers)

"No Tax on Tips" Deduction

- Effective for 2025 through 2028, employees and self-employed individuals may deduct qualified tips that are reported to the IRS
  - "Qualified tips" are voluntary cash or charged tips received from customers or through tip sharing
  - Maximum annual deduction is $25,000
  - Deduction phases out for taxpayers with modified adjusted gross income over $150,000 ($300,000 for joint filers)

"No Tax on Tips" Deduction

- Deduction is available for both itemizing and non-itemizing taxpayers
- Employers and other payors must file information returns with the IRS and furnish statements to taxpayers showing certain cash tips received and the occupation of the tip recipient
- May only be used for tips earned in an occupation that "customarily and regularly received tips" before 2025.

"No Tax on Overtime" Deduction

- Effective for 2025 through 2028, individuals who receive qualified overtime compensation may deduct the pay that exceeds their regular rate of pay: i.e. the "half" portion of "time-and-a-half"
- Maximum annual deduction is $12,500 ($25,000 for joint filers)
- Deduction phases out for taxpayers with modified adjusted gross income over $150,000 ($300,000 for joint filers)

"No Tax on Overtime" Deduction

- Deduction is available for both itemizing and non-itemizing taxpayers, but taxpayers must file jointly if married to claim the deduction
- Employers and other payors are required to file information returns with the IRS and furnish statements to taxpayers showing the total amount of qualified overtime compensation paid during the year

“No Tax on Overtime” Deduction

- **Eligibility:** only applies to overtime that is required by the Fair Labor Standards Act (FLSA), which means that exempt employees cannot claim the deduction
- **Employees may NOT deduct:** shift differentials, weekend premiums, other increases to regular pay not required by the FLSA

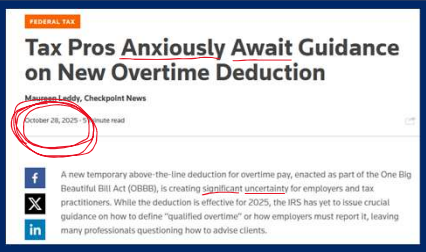
“No Tax on Overtime” Deduction

- Should employers continue withholding taxes for overtime?
  - Yes, employers need to continue withholding federal income tax on all overtime earnings
  - Payroll taxes are unchanged as Social Security and Medicare taxes still apply to all overtime earnings
  - The “no tax on overtime” deduction is then taken by the employee on their individual income tax return, Form 1040

“No Tax on Overtime” Deduction

- New Reporting Requirements
  - Employers must now track and report overtime premium pay separately to enable employees to claim this deduction
  - Must report eligible overtime premium earnings separately
  - Employers may “approximate” qualifying FLSA overtime using a “reasonable method” (to be defined by the Treasury Secretary)
  - Must account for qualified overtime retroactive to January 1, 2025

But how?


FEDERAL TAX

Tax Pros Anxiously Await Guidance on New Overtime Deduction

Maureen Leddy, Checkpoint News

October 28, 2025 · 3 minute read

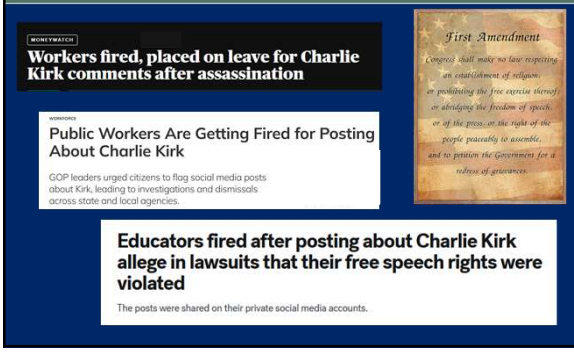
A new temporary above-the-line deduction for overtime pay, enacted as part of the One Big Beautiful Bill Act (OBBB), is creating significant uncertainty for employers and tax practitioners. While the deduction is effective for 2025, the IRS has yet to issue crucial guidance on how to define "qualified overtime" or how employers must report it, leaving many professionals questioning how to advise clients.

But how?

- In August, the IRS announced that there will be no changes to Form W-2, existing 1099-series forms, Form 941, other payroll forms and withholding tables for the 2025 tax year
- Employers and payroll providers should continue using current procedures for reporting and withholding
- The IRS is working on new guidance and updated forms for TY 2026.These will include changes to how tips and overtime pay are reported

IRS

The First Amendment and Public Employees


MONEYWATCH

Workers fired, placed on leave for Charlie Kirk comments after assassination

WORKFORCE

Public Workers Are Getting Fired for Posting About Charlie Kirk

GOP leaders urged citizens to flag social media posts about Kirk, leading to investigations and dismissals across state and local agencies.

Educators fired after posting about Charlie Kirk allege in lawsuits that their free speech rights were violated

The posts were shared on their private social media accounts.

First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The First Amendment and Public Employees

- The First Amendment prohibits governmental entities from "abridging the freedom of speech."
- That means that a municipality cannot arrest, fine or even discipline or fire someone because they exercised their right to First Amendment protected free speech.

The First Amendment and Public Employees

- But not all speech is protected by the First Amendment.
- Speech not protected by the First Amendment includes:
  - obscenity
  - fighting words
  - defamation
  - child pornography
  - perjury
  - blackmail
  - threats of violence
  - incitement to imminent lawless action
  - solicitations to commit crimes
  - statements made pursuant to an employee's official job duties
  - plagiarism of copyrighted material

The First Amendment and Public Employees

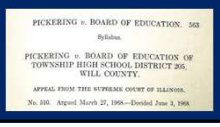
- "[P]ublic employees do not surrender all their First Amendment rights by reason of their employment . . . Rather, the First Amendment protects a public employee's right, in certain circumstances, to speak as a citizen addressing matters of public concern." Garcetti v. Ceballos, 547 U.S. 410, 417 (2006).
- "[T]he law is settled that as a general matter the First Amendment prohibits government officials from subjecting an individual to retaliatory actions . . . for speaking out . . ." BUT "in recognition of the government's interest in running an effective workplace, the protection that public employees enjoy against speech-based reprisals is qualified." Mercado-Berrios v. Cancel-Alegría, 611 F.3d 18, 25 (1st Cir. 2010).
- "When a citizen enters government service, the citizen by necessity must accept certain limitations on his or her freedom." McGunigle v. City of Quincy, 944 F.Supp.2d 113 (1st Cir. 2016).

The First Amendment and Public Employees

- When analyzing whether employee speech is protected by the First Amendment, a public employer must ask whether a public employee spoke on a matter of public concern, defined as a matter of larger societal significance or importance.
-
- If a public employee was disciplined or discharged for expressing a private grievance, that would not violate the First Amendment.
- If, however, a public employee spoke on a matter of public concern, the municipality must engage in a balancing test.
- The municipality should balance the employee's right to free speech against the municipality's interests in an efficient, disruptive-free workplace.

The First Amendment and Public Employees

- The United States Supreme Court developed this test in Pickering v. Board of Education (1968), a case involving a public high school teacher who was terminated after writing a letter to the editor of a newspaper that was highly critical of school district officials but not people he worked with on a day-to-day-basis.
- The Supreme Court reasoned that Pickering spoke on a matter of public concern – whether the school district spent too much money on athletics as opposed to academics.
- The Court then held that Pickering's rights to free speech outweighed the school board's interests in a disruptive free workplace, largely because Pickering did not criticize people that he worked with daily, such as fellow teachers or his principal.


PICKERING v. BOARD OF EDUCATION. 563
Syllabus.
PICKERING v. BOARD OF EDUCATION OF TOWNSHIP HIGH SCHOOL DISTRICT 205, WILL COUNTY.
APPEAL FROM THE SUPREME COURT OF ILLINOIS.
No. 510. Argued March 27, 1968.—Decided June 3, 1968.

The First Amendment and Public Employees

- If your municipality is considering disciplining or discharging an employee based on their speech, the questions to ask are:
  - (1) whether the speech falls into one of the categories not protected by the First Amendment listed above;
  - (2) whether the speech is on a matter of public concern rather than a private grievance; and
  - (3) whether the speech was so disruptive that the municipality's interest in maintaining an efficient and harmonious workplace outweighs the employee's right to free speech.


Questions