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Tax Alert

July 23, 2025

Business tax reform: Key changes under the OBBB Act

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The One, Big, Beautiful Bill Act (OBBB Act) reshapes US tax law with permanent expensing, QSBS boosts, and global tax shifts, impacting businesses of all sizes both domestic and international. While the OBBB Act introduces clarity and strategic advantages, challenges and complexities remain.



What's the impact?

- Permanent full expensing, increased Section 179 limits, and enhanced QSBS rules provide powerful tools for businesses to accelerate investment and unlock capital efficiency.
- Reforms to GILTI (NCTI), FDII (FDDEI), BEAT, and CFC provisions reshape the international tax landscape, requiring businesses with global footprints to reassess structures and explore potential benefits.
- Navigating R&D expensing transitions, interest deduction changes, and tariff-related impacts demands proactive planning to balance opportunity with risk compliance.

The recently enacted One, Big, Beautiful Bill Act (OBBB Act) marks a pivotal moment in US tax policy. The legislation offers permanence to several key provisions from the 2017 Tax Cuts and

Jobs Act (TCJA) and also introduces new opportunities, such as enhanced QSBS benefits and full expensing options. However this comes with heightened compliance challenges in areas like international taxation and R&D capitalization.

This summary outlines the most critical updates and strategic implications for businesses.

Nixon Peabody is actively analyzing the OBBB Act and sharing insights on its impact across industries—from tax planning and healthcare to housing and employee benefits. Read more in our latest alerts and articles.

Key business tax provisions of the OBBB Act

FULL EXPENSING

- / Bonus Depreciation for Qualified Property (Section 168(k)): OBBB Act makes 100% expensing permanent for qualified property.
- / Domestic Research and Experimental Expenditures (Section 174A): TCJA (2017) required these expenditures to be capitalized and amortized over a five-year period for tax years after December 31, 2021 (15 years for expenditures outside the US); the OBBB Act allows for elective expensing for amounts incurred after December 31, 2024, (and retroactively for some small businesses going back to 2022). Transition rules contain significant ambiguities that could lead to misapplication and compliance issues. Rules regarding foreign expenditures did not change (15-year period applies). It is important to coordinate with interest expense limitations, net operating losses, and other tax attributes.
- / Real Property Used for Producing Tangible Personal Property (Section 168(n)): The OBBB Act adds new Section 168(n), which allows a 100% depreciation election for “qualified production property” (QPP). The QPP construction *must begin between January 20, 2025, and December 31, 2029, and must be placed in service before January 1, 2031.*

INCREASED EXPENSING (SECTION 179).

The rule allowing immediate expensing for certain business property had its base limit increased from \$1 million to \$2.5 million (and increased the phase-down threshold from \$2.5 million to \$4 million). All of these base amounts were and will continue to be subject to inflation adjustments.

ENHANCED QSBS BENEFITS—STRATEGIC OPPORTUNITY.

Section 1202 Qualified Small Business Stock rules have been enhanced, representing a significant boost to small business and start-up (venture) investments:

- / **Expanded Qualifying Thresholds:** Previously a business could not have gross assets of more

than \$50 million; this cap was raised to \$75 million

- / **Phased Holding Period:** Replaces the previous all-or-nothing five-year rule
 - 50% tax benefit at 3 years
 - 75% tax benefit at 4 years
 - 100% tax benefit at 5 years
- / **Increased Gain Exclusion:** \$10 million gain exclusion increased to \$15 million. The alternative 10x tax basis exclusion remains unchanged.
- / **Rollover Provisions:** Rollovers remain an option and now with more flexible investment timelines and other exit strategies, QSBS investments should blossom

QUALIFIED BUSINESS INCOME DEDUCTION

This deduction (Section 199A) of 20% was set to expire after 2025, but now is permanent. Currently Congress is considering an increase to 23%.

INCREASED DEDUCTIBILITY OF BUSINESS INTEREST (SECTION 163(J))

The TCJA (2017) imposed a limit on the deductibility for business interest, set to 30% of EBITDA, from 2017 to 2021, but that base was reduced to EBIT for 2022 and beyond. The OBBB Act reverts to EBITDA starting in 2025 and makes it permanent.

EXCESS BUSINESS LOSS LIMITATION (SECTION 461(L))

The OBBB Act makes the TCJA's limitation on excess business losses of non-corporate taxpayers permanent (it was set to expire in 2028).

"DISGUISED SALES" (SECTION 707(A)(2))

The OBBB Act provides that Section 707(a)(2) is self-executing and therefore does not require regulations to be effective. This clarifies that "disguised sales" of property or services can be recharacterized under Section 707.

EMPLOYEE RETENTION TAX CREDIT (SECTION 3134)

The statute of limitations on assessment was extended from five years to six years for ERC claims relating to the third and fourth quarters of 2021. The OBBB Act also (a) retroactively ends ERC for Q3-2021 and Q4-2021 claims filed after January 31, 2024 (shortening the end date of April 15, 2025) and (b) adds certain enhanced penalty provisions.

Implications for cross-border business

The OBBB Act introduces permanent changes to international tax provisions, including higher NCTI and FDDEI rates, a fixed BEAT rate, and restored CFC rules. These updates bring greater clarity but also demand careful planning around foreign tax credits, income sourcing, and entity structures.

- / Net CFC Tested Income ((NCTI) formerly GILTI) (Section 951A): Effective rate for this type of income increases from 10.5% to 12.6% in 2026 and is made permanent.
 - *Foreign Tax Credit (FTC):*
 - The “haircut” for NCTI purposes is reduced from 20% to 10% (meaning 90% of FTCs are allowed);
 - However, certain deductions are allocated to US source income (and away from foreign source income) and no amount of interest expense or R&E expense may be allocated to the NCTI category of foreign source income for FTC purposes.
- / Foreign-Derived Deduction Eligible Income (FDDEI, formerly FDII) (Section 250): Effective rate on this type of income increased from 13.125% to 14% starting in 2026 and is made permanent.
- / Base Erosion Anti-Abuse Tax (BEAT) (Section 59A): Rate permanently set to 10.5% for tax years after December 31, 2025. Under TCJA it was set to go to 12.5% in 2026.
- / The CFC “look-through” rule (Section 954(c)(6)) is finally made permanent. The look-through rule allows dividends, interest, rents, and royalties received from a related CFC to be excluded from foreign personal holding company income if paid out of earnings that are neither subpart F income nor income effectively connected with a US trade or business.
- / TCJA removed Section 958(b)(4), which prevents “downward attribution” of stock from a foreign person to a US person, thereby wreaking havoc by creating CFCs where no CFC should have been. The OBBB Act fixed this by reinstating Section 958(b)(4).

Proactive measures for compliance and growth

To effectively respond to the OBBB Act’s changes and mitigate emerging risks, business leaders should take immediate, near-term, and ongoing steps to align their tax strategies and compliance protocols. The following actions are designed to help businesses capture new opportunities while reinforcing their operational readiness.

- / **Immediate:** Review all investments for QSBS qualification and holding period optimization
- / **Near-term:** Establish enhanced due diligence protocols for R&D expensing transition rules; consider cash flow enhancements from enhanced depreciation and expensing provisions and benefits to M&A transactions
- / **Ongoing:** Monitor international tax developments and OECD framework implementation for

global portfolio companies

The OBBB Act offers meaningful tax advantages but also introduces complexities. To fully capitalize on these changes while managing risks, businesses should act swiftly and strategically. Nixon Peabody [tax attorneys](#) are ready to guide you through this evolving landscape with tailored, proactive guidance.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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