Table of Contents

TAB 1: 2025 General Business Topics 1

One Big Beautiful Bill Act (OBBBA) 2025 1

Business Tax Provisions of the OBBBA 1

IRS Industry Specific Info for Businesses 4

Revised Audit Technique Guides issued 4

Research & Experimental Costs and Related Changes 5

Background 5

TCJA made major changes to the R&D rules 5

OBBBA §70302 changes everything again! 5

Domestic R&D 5

R&D options for years beginning after 2024 6

Accounting change methods 6

Accounting Method Changes Summary 7

OBBBA related accounting method changes 8

Options for unamortized pre-2025 R&D 8

Administrative process to make the change 8

“Small business” taxpayers have additional options 9

Additional reporting required on “statement in lieu” of Form 3115 9

Planning point – case study 9

Comprehensive Example 10

Foreign R&D 11

Coordination with R&D credit 11

R&D expenditures defined 11

Allocation of costs 13

Auto and Travel Expenses 14

Standard mileage rate and depreciation recapture 14

Business Meals and Entertainment 15

Meal expenses 15

Regulations impose additional rules for deductible meals 15

50% limitation to meal deduction 16

Exceptions to the 50% business meal limitation 16

Other meal expense reporting rules 18

Exceptions for commercial vessels, drill rigs, and fishing vessels 19

Per Diems for Meals, Lodging, and Incidental Expenses 20

Per diem amounts 20

Partial day per diems 20

Most Common Current Per Diem Rates 21

When can per diem rates be used 21

Qualified Employer Fringe Benefits 22

General Rules for Qualified Fringe Benefits 23

Accountable VA Non-Accountable Plan 23

Sample Accountable Plan 24

Business Expenses Qualified for Employer Reimbursement 25

Owner benefits and related entities 25

Healthcare Fringe Benefits 27

Business Owners’ Health Insurance Treatment 28

Selected Discussion of Commonly Overlooked Fringe Benefit 29

Qualified Small Employer HRA (QSEHRA) 29

QSEHRA requirements 29

Establishing a QSEHRA 29

Eligible employees 30

Reimbursement timing 30

QSEHRA reporting 30

Education Assistance Programs and Scholarships 31

OBBBA makes changes to education assistance programs 31

Sample Educational Assistance Plan 31

Dependent Care Assistance Programs 32

Maximum benefit 32

OBBBA increases dependent care assistance amount 32

Other Fringe Benefits Excluded From Employee Gross Income 33

No additional-cost service 33 Qualified employee discounts 33

Working condition fringe benefits 34

De minimis benefit 34

Qualified transportation expenses 35

Bicycle expense fringe benefit repealed 35

Adoption assistance programs 36

Disaster related relief payments 36

Business Interest Expense Limitation 38

Overview 38

Real estate and farming exception 38

Interest limitation calculation 38

OBBBA changes calculation 38

Business Interest Comparison Table 39

$31 Million Revenue Test 40

The Limits 40

Excess taxable income 43

Excess business interest income 43

Other Miscellaneous Provisions Of OBBBA 45

Business Loss Deduction 45

Percentage of Completion for Residential Construction 45

 Influencers and Related Tax Issues 46

Overview 46

What is an “influencer?” 46

How big are influencers? 46

What do they do? 48

Influencer marketing 48

How do influencers make money? 48

General Monetization Thresholds to Monetize 48

Realistic income expectations 49

One Last Problem for Influencers – Nexus 55

Video content and nexus 55

Some Case Studies 55

TAB 2: Business Pensions 57

DOL Reports Latest Pension Plan Statistics 57

Highlights from the DOL Bulletin 57

2024 Retirement Savings Account Balances By Age 58

Many Retirement Plan Options Available to Employers 58

SECURE Act and SECURE Act 2.0 58

2025 Pension Comparison Summary 59

Savings Incentive Match Plan for Employees or Small Employers 60

SIMPLE IRAs in general 60

No fiscal years for SIMPLE IRAs 60

Deadline for employers to set up SIMPLE IRA plans 60

SIMPLE IRAs may be combined with traditional and/or Roth IRAs 60

Form 5304-SIMPLE and Form SIMPLE 5305-SIMPLE 60

Employee notification required 60

Employee contribution limits 60

Employee SIMPLE contribution limits increased 61

Other election formalities 62

SIMPLE IRA employer contributions 63

Employer contribution options – matching or nonelective 63

Matching contributions 63

Nonelective contributions 63

Additional employer SIMPLE contributions now allowed 64

SIMPLE IRAs and Roth Components 65

SIMPLE IRA distributions - severe distribution TRAP – BEWARE 65

Rollovers can also create problems 65

Qualified Retirement Plans 67

2025 Retirement Plans Limits 67

Catch up contributions 67

Additional catch-up contributions allowed for those age 60 – 63 68

401(k) Plans 68

“Starter” 401k deferral-only plans available 68

§401(k) and §403(b) plan participation 68

Qualified Roth Contribution Programs 69

Designated Roth account features 69

Roth Catch-up Deferrals Only Option for “High” Income Taxpayers 69

Confusion leads IRS to delay implementation of new catch-up rules 70

Mandatory Roth contributions 71

Employer contributions to pension may be Roth contributions 72

Designated Roth contributions 72

Form W-2 or Form 1099-R Reporting Summary 73

Unique Plan Catch Up Rules for §403(b) and §457 Plans 75

§403(b) participants get special $3,000/$15,000 extra catch-up 75

§403(b) Catch-ups for employees age 50 or over 75

§457 plan participants may double defer for 3 years prior to retirement 76

Student loan payments count as employee elective deferrals for matching 77

Notice 2024-63 covers the QSLP rules in depth 77

Extensive Retirement Plan Resources on IRS Website 77

Helping Taxpayers Choose, Maintain and Operate a Plan 77

TAB 3: Payroll and Payroll Related Tax 78

Employee Retention Credit (ERC) Status Report September 2025 78

Reporting overpayments 78

IRS cites the tax benefit rule to justify ERC inclusion in income 79

IRS says adjustment allowed in current year if ERC is later denied 79

OBBBA Makes Significant Changes to ERC Rules 80

OBBBA Makes Significant Changes to ERC Rules 81

Overview 81

1099-K reporting threshold changes – Yes, again! 81

What to do if personal/other non-taxable income is reported on 1099-K 81

OBBBA Increases 1099 Filing Thresholds for the First Time in Decades 81

IRS Says No OBBBA Related Changes to Information Returns for 2025 82

But changes coming in 2026 82

Treasury releases initial list of professions that qualify for tip deduction 83

Auto Dealer Doesn’t Escape 1099 Filing Penalties 84

New software didn’t help 84

Other W-2 Reporting 85

Reporting a deceased employee's wages 85

Other Payroll and Related Tax Developments 87

Social Security Rates and Limits 87

Early Retirement Social Security Earnings Limit 87

Social Security Overpayments Due to Excess Earned Income 87

SSA limits repayments to ease burden on recipients 88

Repayment of overpayments are limited – nope, just kidding! 88

Shark Attack Medicare Tax – IRMAA 88

IRMAA stands for “Income-Related Monthly Adjustment Amount.” 88

IRMA Amounts are subject to annual inflation adjustments 89

IRMAA exception – the “Life Changing Event.” 89

Self-Employed Health Insurance Deduction 90

Establishing the SE health insurance under the business 90

Medicare qualifies as SE health insurance 91

SE health insurance traps 91

Self-employed health insurance reporting 92

Form 7206 93

Employee v. Independent Contractor – IRS v. DOL 94

DOL Independent Contractor regulations finalized 94

DOL independent contractor v. employee rules 94

IRS independent contractor v. employee rules 94

DOL FAQs for worker classification #6 95

Congress enacts Act §530 to provide employer relief 95

Act Section 530 relief 95

IRS Training 3320-102 (10-96) spells out the rules 96

IRS advance notice if worker classification is being audited 96

Prima facie case 98

IRS Updates Act §530 Guidance for the First Time in Decades 98

Definition of an “employee” 98

Information returns filing consistency requirements 98

Substantive consistency requirement 98

A worker is “treated” as an employee if 99

Reasonable basis requirement 99

Burden of proof shift 99

IRS provides new examples to demonstrate the application of Act §530 100

Example 1 100

TAB 4: Business Tax Credits 101

Business Tax Credits – Overview 101

OBBBA changes the business credit landscape for years to come 101

OBBBA Business Tax Credit Changes 101

FICA Tip Credit 102

Overview 102

Form 8846 filing 102

Calculating the credit 103

Minimum wage must be met 103

0.9% Additional Medicare Tax and the FICA tip credit 103

OBBBA expands definition of FICA tip credit eligible industries 103

Employer Dependent Care Credit 104

Overview 104

Qualified childcare expenses 104

Credit is claimed on Form 8882 104

No double dipping 104

Dependent care provider credit recapture 104

OBBBA enhances employer dependent care credit 106

Paid Family and Medical Leave Credit 107

Overview 107

Qualifying employee 107

Family and medical leave defined 107

Family and medical leave is not 107

Calculating the credit 107

Family and medical leave credit enhanced by OBBBA 107

New Market Tax Credits 108

Overview 108

Community Development Entity (CDE) defined 108 Credit calculation 108

Form 8874 108

Credit recapture 109

OBBBA makes New Markets Tax Credit permanent 109

Low Income Housing Credit 109

Overview 109

Credits are typically sold 109

Credit types and rates 109

OBBBA increases LIHTC 109

New Energy Efficient Home Credit 110

Overview 110

OBBBA repeals new energy efficient home credit 110

Advanced Manufacturing Production Credit 110

Credit overview 110

OBBBA changes to AMPC 110

Advanced Manufacturing Investment Credit 111

Overview 111

Who can claim the credit? 111

Qualified property 111

Claiming the credit 111

OBBBA amends, but doesn’t repeal, the AMIC 111

Qualified Commercial Clean Vehicle Credit 111

Overview 111

Qualifying commercial clean vehicle 112

Other items to note regarding CCV credit 112

No double benefit – but choice allowed 112

What about recapture? 112

OBBBA ends CCV credit early 112

Pension Plan Credits – Four Credits Available for Qualified Employers 113

Credit #1 – Qualified Pension Start Up Credit 113

Employer qualifications 113

HCE defined 113

Qualified pension startup costs defined 114

Credit #2 – Employer contribution credit 114

Wage limit applies 114

Credit #3 – Automatic Enrollment Credit 115

Mandatory auto-enroll coming 115

Auto-enroll proposed regulations clarify employer responsibilities 115

Auto enroll and SIMPLE IRAs 116

Credit #4 - Military Spouse Retirement Credit 116

Eligible defined contribution plan 117

Military spouse defined 117

Research Credit 118

Historical overview 118

Inflation Reduction Act makes additional changes to R&D credit 118

Qualified Research Expenditures 118

Qualified research – four requirements 119

Non-qualified expenses 122

Agreement for payment must exist 122

Possible Expenses for Research Credit 123

Research Credit 4-Part Test 125

Contract engineering expenses not QRE 125

General economic risk does not make contract a contingent fee contract 125

Taxpayer got a lot wrong 126

Documentation problems proves costly 126

Documentation is not the only problem 126

Alliantgroup provided consulting services 126

R&D Credit Computation 128

Regular R&D Credit Calculation 128

Alternative Simplified Credit 130

Election to use ASC 131

R&D Limitations 131

Recordkeeping 131

R&D Credit requires documentation 131

Lack of documentation dooms the R&D credit 132

Reporting 132

Amended returns 132

Work Opportunity Credit 133

What is the WOTC? 133

Maximum credit 133

Qualified targeted groups 133

Qualifying for the credit 134

Claiming the credit 134

Form 5884 134

TAB 5: Corporations 135

Business Entity Filing Overview 135

Chart: Entity Returns Filed in 2024 and 2023 135

Chart: Entity Returns Filed in 2024 and 1995 135

Business Entities – Who Gets Audited 136

Corporate Transparency Act & Beneficial Ownership Information Reporting 136

FinCen adopts interim rules to support limited BOI reporting 136

§1202 Stock Review 137

QSBS qualifications for the exclusion 137

Capital gain exclusion for QSBS owners 137

Reporting requirements 137

OBBBA Makes Changes to §1202 Benefits 137

Excludable gain limits increased 138

10x basis rule remains unchanged 138

Gross asset limit increased 138

Summary and reminders 138

QSBS Exclusion Overview 139

Ordinary Loss Allowed on Stock Disposition 141

Corporation requirements 141

Stock requirements 141

Shareholder requirements 141

Ordinary loss treatment 141

C Corporation Charitable Deductions 142

Overview 142

Qualified donations 142

OBBBA makes changes to contribution calculation for corporations 142

Planning thoughts 142

2025 Draft S Corporation K-1 143

Non-Taxable Reorganizations Under §355 144

Overview 144

Current reporting requirements for §355 transactions 144

Distributing Corporations 144

Distributees 144

Proposed Regs Introduce New Form to Meet Disclosure Requirements 145

Form 7216 filing requirements 145

Form 7208 Used to Report Corporate Stock Repurchase Excise Tax 146

Pass Through Entity Tax - SALT Tax Deduction Workarounds 147

PTE in 2026 and beyond 148

What taxes are included? 148

PTE planning 148

Split-Dollar Life Premiums Taxable to Shareholder – No Deduction for Corp 149

IRS says policies subject to split-dollar rules and assesses tax 149

Court says nice try! 149

Employee Stock Option Plans 150

Background 150

Fast facts 150

Typical ESOP structure 150

Advantages and disadvantages of ESOPs 151

Advantages 151

Disadvantages 151

S corporation distribution rules 152

Disqualified shareholders could terminate S election 152

Election to defer gains from sale of stock to ESOP 152

QRP defined 152

SECURE Act 2.0 Section 114 152

Who should consider an ESOP? 152

Industry specific 153

Asset specific 153

Gain deferral under §1042 not allowed 153

Installment sale rules to the rescue 154

TAB 6: Depreciation 155

Basis 155

Ownership & Qualification 156

What about land? 156

What about land prep costs? 156

Placed in service requirement 157

IRS wants summary judgement that January was placed in service date 158

Court rules no summary judgement 158

Calculating depreciation – the Big 3 158

Applicable life 159

Applicable methods 162

Applicable convention 162

In Service Date MACRS Depreciation Lives & Issues 163

IRS Depreciation Information and Guides 163

Section 179 Expensing 164

Background 164

§179 Limits 165

§179 rules in general 165

§179 Qualifying property 166

TCJA adds to list of §179 qualified assets 167

Non-qualifying property 167

Qualified improvement property defined – QIP 167

“Internal structural framework” defined 168

Summary of Various Real Property and §179, Bonus Interaction 169

Taxable Income Adjustments for §179 Income Deduction Limit 170

Carryovers of §179 170

§179 Recapture 170

§179 Recapture on Asset Sales by Pass-through Entities – K-1 Reporting 172

Planning Ideas 172

#2 Making the Most of the $2,500 De Minimis Safe Harbor Election 173

Election must be made annually 173

#3 Tax Planning Idea Avoid New Equipment Purchases 173

Energy Efficient Commercial Building Deduction 174

§179D repealed 174

Bonus Depreciation 175

Background and getting us up to date 175

Bonus qualified property 175

Non-qualified property 175

§179, bonus and MACRS ordering rules 176

Recapture rules 177

Converted property 177

Electing out of bonus 177

Election is irrevocable 177

Final note 178

Other bonus deprecation notables 178

OBBBA finally creates bonus depreciation certainty 179

Transition rule 179

Transition Example 179

Qualified production property deduction added/expanded under §168(n) 179

Other QPP rules 180

QPP Discussion and Planning 180

Like-kind exchanges and bonus depreciation 180

Bonus Qualifying Assets 181

Class Life a Question – ATG Has the Answer 181

Luxury Automobile Deprecation 182

Luxury Auto Deprecation Limitations 182

Listed Property Rules 183

Depreciation and Reporting Requirement Summary 183

Business purpose supported 183

Business use supported 183

Substantial compliance 184

FIXING THE ERROR 185

Amended Returns 185

Change in Accounting Method Form 3115 185

Explanation of the 2-year rule 187

TAB 7: Partnerships & LLCs 189

LLCs and Partnerships in General 189

Overview 189

Domestic filing exception – Item to note 189

Recent Partnership Basis Developments 190

IRS Addressed Partnership Basis Shifting Transactions 190

IRS specifically focused on three types of transactions 190

No so fast my friends 191

New Basis Reporting Form Required 191

Form 7217 192

Basis Adjustment Required Even if Adjustment is from Closed Year 192

Surk ignores running basis rules of §705 192

Court says no "get out of jail free" card 193

Final note 193

Other Recent Partnership Developments 194

Electing Out of Partnership Tax Treatment 194

Making the election out of partnership treatment 195

What if the election is not made 195

Few Small Changes to 2025 Version of Form 1065 196

Additional reporting required for Foreign Disregarded Entities 196

Limited Partners, LLC Members and Self Employment Tax 196

Background 196

What’s the issue? 197

IRS acts and Congress doesn’t like it 197

We turn to the courts for guidance 197

Soroban provides the most comprehensive analysis yet 197

Limited partner not defined in Federal tax code 197

Function test at the core of the argument 198

More cases coming soon 198

Transfers in Exchange for Services 199

Income recognition timing 199

Accounting for transfers in exchange for services 199

Transfers for profits interest only 200

Valuing partnership interests when transfers occur 201

Receipt of profits interest for services not taxable 201

OBBBA makes subtle change to §707 rules 201

Very subtle difference 202

Partnership Interest Transfers with Hot Assets 202

No reporting if §751 doesn’t apply 202

Information to include 202

When to file 202

Seller requirements 203

New Form 8308 instructions include BBA info 203

Form 8308 204

IRS Issues Final Regulations to Combat Abusive Conservation Easements 205

Disallowance rule 205

Disallowance rule exceptions 205

Anti-abuse rule 205

Amended returns and AARs 205

Allocation by upper-tier partnerships 205

Reporting and recordkeeping 206

Partnership reporting to partners 206

Partners and S corporation shareholders reporting 206

Additional reporting for conservation contributions 206

IRS Small Business/Self Employed Partnership Job Aid 206

Pub 5800 specifics 206

Partnership Elections Grid 208

Operating Elections 209

TAB 8: QBI Deduction 210

QBI Made Permanent 210

QBI overview 210

§199A Part I - 20% of Qualified Trade or Business Income 211

QBI deduction formula defined 211

“Low” income versus “high” income taxpayers and QBI 211

Taxable income defined 211

Minimum QBI deduction for 2026 and beyond 212

Applicable taxpayer 212

Defining Qualified Trade or Business Income 213

“Trade or business” defined 213

Specific QBI inclusions and exclusions 213

Items specifically included in QBI 213

Special Note for S Corp SHs 214

Special note for Partners 215

Items specifically excluded from QBI 216

What about charitable contributions reported on Schedule K-1? 218

Schedule E Income – Is it a Trade or Business? 219

The Dilemma - Historically, nobody cared 219

Regulations help, right? 219

IRS FAQs shed some light 219

What does the IRS say? 220

IRS Regs provide specific guidance in two instances of rental activities 220

Self-rentals are a trade or business by default 220

Real Estate Trade or Business Safe Harbor 220

Safe harbor rental real estate activity 220

Multiple rental activities may be combined – consistency required 220

Specific real estate activities are excluded 221

Safe harbor requirements 221

“Rental Services” defined 221

Making the rental real estate safe harbor election 222

What if the safe harbor requirements cannot be met? 223

What do the courts say? 223

Other cases to note 224

But also see where the courts weren’t so taxpayer friendly 224

Trade or Business – Related Court Cases Summary 225

Better prepare 1099s! 225

QBI For Taxpayers with Multiple Activities 225

What if total QBI is a QBL 225

Additional Restrictions for High Income Taxpayers 226

OBBBA stretches high income ranges 226

Wage and Capital Investment Limitation 226

W-2 wages defined 227

Phase in of Wage Limit 227

Variation – OBBBA change in 2026 228

Unadjusted Basis Immediately After Acquisition of Qualified Property 228

Specified Service Trades or Businesses 230

Phase-in of specified service business limitation 230

Mechanics of the phaseout 231

OBBBA stretches SSTB high income ranges 231

What About Multiple Businesses Conducted by One Individual or RPE? 232

One Entity With Multiple but Separate Trades or Businesses 232

Allocation methods and consistency 233

One Entity with Multiple Product Lines 233

De Minimis Exception 233

Non-SSTB Providing Property or Services to a SSTB 234

Aggregation of Business Activities 235

Separate QBI Calculation Required for Each QBI Activity 235

Aggregation Election Allows Wages/Asset Basis to be Shared 236

Aggregation rules - so who can aggregate 236

Any reason not to aggregate? 236

Required annual disclosure 237

Failure to disclose 237

QBI Deduction - Other Items 238

RPEs failure to report information 238

Reporting on an amended return 238

Allocation of UBIA for Partners 238

Determination of QBI Activity for an RPE 238

Statutory employees 238

Only U.S. based income used in calculations 239

QBI forms required 239