“One Big Beautiful Bill Act” tax provisions of interest for institutions of higher education

KPMG analysis and observations

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Introduction

The House of Representatives on May 22, 2025, passed H.R. 1 (House bill), the budget reconciliation bill known as the "One Big Beautiful Bill Act" (read *TaxNewsFlash*). On July 1, 2025, the Senate passed its version of H.R. 1 (Senate bill), which made various amendments to the bill, including changes to the tax subtitle that was included in the House bill (read *TaxNewsFlash*). On July 3, 2025, the House passed the Senate bill without amendment, and the bill was signed into law by President Trump on July 4, 2025 (the Act).[1]

The Act generally makes permanent the tax provisions of the Tax Cuts and Jobs Act (TCJA). It also temporarily provides for tax benefits promised by the president for tip income, overtime pay, and auto loan interest, and introduces a host of revenue-raising provisions.

Among the important business provisions of the Act are provisions that:

- Reinstate and make permanent expensing of R&D costs, the higher EBITDA cap on the deduction for interest, and 100% bonus depreciation (the House bill would have extended these provisions five years)
- Make permanent the section 199A deduction for passthrough business income (at the current 20% rate instead of the higher 23% rate proposed in the House bill)
- Renew and reform the Opportunity Zone program
- Add a 100% first-year depreciation deduction for real property used in a production activity

The Act also includes revenue-raising provisions that:

- Repeal or phase out energy tax credits created by the Inflation Reduction Act (IRA)
- Make extensive reforms to the U.S. international tax regime
- Temporarily increase the $10,000 cap on the state and local tax (SALT) deduction to $40,000, with no significant changes to the treatment of passthrough entity taxes
- Impose a 1% tax on remittances to a recipient outside the United States
- Increase taxes on certain college endowments (but at lower rates than those of the House bill)
- Bar the IRS from paying certain employee retention credit claims filed after January 31, 2024

This report includes analysis and observations regarding the provisions in the Act of interest to institutions of higher learnings. This is one of a series of reports that KPMG has prepared on the Act, which can all be found here.

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[1] The Joint Committee on Taxation (JCT) has provided a number of documents estimating the revenue effects of the various versions of the bill:

- JCX-26-25R, which estimates the revenue effects of the provisions of the House bill
- JCX-35-25, which estimates the Senate bill using a present law baseline (the same baseline used for the estimates for the House bill) that assumes that tax provisions of current law expire according to their terms
- JCX-34-25, which estimates the Senate bill using a "current policy baseline" as adopted by the Senate, which assumes that tax policies currently in effect (such as the lower Tax Cuts and Jobs Act (TCJA) individual tax rates) are permanent and therefore extending those provisions has no cost.

The revenue (cost) estimates noted in the descriptions below were often the same using either a present law baseline or current policy baseline. Where that was not the case, both estimates are provided.

Increased tax rates on investment income of certain private colleges and universities

Section 70415 significantly amends the excise tax under Code section 4968, which currently imposes a tax on the net investment income of certain private colleges and universities that have at least 500 tuition-paying students, have investment assets of $500,000 or more per student, and meet certain other requirements ("applicable educational institutions" or "AEIs"). Most significantly, the current flat 1.4% rate was replaced with a tiered rate structure based on the size of an AEI's "student adjusted endowment."

The rate structure is as follows:

- 1.4% if the student adjusted endowment is more than $500,000 and not more than $750,000
- 4% if the student adjusted endowment is more than $750,000 and not more than $2 million
- 8% if the student adjusted endowment is more than $2 million

The student adjusted endowment of an institution is the aggregate fair market value of the assets of the institution (determined as of the end of the preceding tax year), other than those assets that are used directly in carrying out the institution's exempt purpose, divided by the number of students of the institution. Although proposals initially advanced by the House and the Senate Finance Committee (SFC) would have excluded foreign students from the computation of the student adjusted endowment, that provision was not included in the Act.

The Act also modifies the definition of AEI. Under the provision, an institution is only an AEI subject to the tax if it had at least 3,000 tuition-paying students in the preceding tax year, a significant increase from the 500 tuition-paying student threshold under current law.

In addition, the amendment specifically includes in net investment income certain interest income from student loans and royalty income from federally-funded research, both of which are currently excluded by the regulations under section 4968.

Finally, the amendment directs the Secretary to prescribe regulations or other guidance to prevent avoidance of the tax (for example, through the "restructuring of endowment funds or other arrangements").

The amendment applies to tax years beginning after December 31, 2025.

The JCT has estimated the provision will increase revenues by approximately $761 million over 10 years.

KPMG observation

Increasing the threshold for AEIs from 500 tuition-paying students to 3,000 tuition-paying schools will significantly decrease the number of schools subject to the tax, as there are several schools that have student adjusted endowments exceeding $500,000 due primarily to their small student body count. Under the current regulations, students are not considered "tuition paying" if their tuition is entirely covered by scholarships or grants provided (or work study programs operated) directly by the educational institution or by the federal government or any state or local government.

Although the House and SFC proposals included an exception from the tax for certain religious institutions and the SFC proposal included an exception for institutions that did not participate in any federal student financial aid programs during the preceding tax year, both exceptions were stricken from the enacted bill. In addition, the House bill had four tiered rates of 1.4%, 7%, 14%, and 21%, significantly higher than those eventually approved.

Under current law (and unchanged by the bill), a university's assets generally include assets held by certain related organizations (including supporting organizations to the university and organizations controlled by the university), and a university's net income generally includes investment income derived from those assets. The tax rate differential between tiers is significant; thus small changes in assets or enrollment could push an institution over (or below) a tier threshold, resulting in a significant difference in tax liability. Therefore, institutions and their related organizations will need to closely monitor and coordinate activity to effectively anticipate and mitigate tax exposure.

Expanded tax on EO compensation over $1 million

Section 70416 amends section 4960, which imposes an excise tax on an applicable tax-exempt organization (ATEO) and entities related to the ATEO if they pay remuneration in excess of $1 million (or an "excess parachute payment" – a severance payment exceeding certain thresholds) to "covered employees." Remuneration paid by certain related organizations is included when determining whether the tax applies. The amendment significantly expands the definition of "covered employee" to include *any* employee (or former employee employed after 2016) of the ATEO, not just the five highest compensated employees in each year after 2016 as under current law. The excise tax is imposed at the corporate tax rate (currently 21%).

The amendment applies in tax years beginning after December 31, 2025.

The JCT has estimated the provision will increase revenues by approximately $3.8 billion over 10 years.

KPMG observation

This provision could have significant consequences for ATEOs that pay more than five individuals more than $1 million or provide certain severance payments employees (even those earning significantly less than $1 million). Additionally, the $1 million compensation threshold is not indexed for inflation, potentially expanding the future impact as more ATEO employees may be expected to earn over $1 million annually.

The expansion of the definition of covered employees to include all individuals employed by the ATEO in any role, including former employees of the ATEO employed after 2016, could also impact organizations that are related to ATEOs. For example, if a for-profit subsidiary of an ATEO currently employs someone who was previously employed by the ATEO in any capacity after 2016 (even if they were not considered a covered employee at the time), the for-profit company could be liable for the excise tax on that employee's current compensation over $1 million (or excess parachute payment) unless an exception applies. Certain exceptions in the regulations currently apply "for purposes of determining an ATEO's five highest-compensated employees"; however, it is uncertain whether and how these exceptions apply now that covered employees are not limited to the five-highest compensated employees.

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Direct pay retained for energy credits, but several credits terminated or modified

Section 6417, the elective pay (or "direct pay") provision that currently provides tax-exempt and State, local and Tribal government entities access to a dozen clean energy credits, including the major production and investment tax credits, survived and continues in force. However, amendments sunset or make several material modifications to most of the underlying clean energy tax credit provisions, effectively reducing or eliminating the benefits that tax-exempt organizations (and other taxpayers) have received for making certain investments in clean energy property.

Among the energy credits that will sunset quickly are popular provisions that tax-exempt and government entities have accessed using the direct pay provision:

- Qualified commercial clean vehicle credit (section 45W), for which no credit is available with respect to vehicles acquired after September 30, 2025
- Alternative fuel vehicle refueling property credit (section 30C), which is not available for property placed in service after June 30, 2026.
- Technology neutral clean electricity investment credit (section 48E) for certain wind and solar facilities, which is terminated for property that does not begin construction within one year of enactment (by July 4, 2026) or is not placed in service by December 31, 2027. For other facilities, and for energy storage (battery) technology, the current credit phase-outs that begin in 2032 generally apply (although the potential for a later phase-out was eliminated).

Additional revisions to the section 48E clean electricity investment credit include higher phased-in domestic content requirements and new restrictions relating to facilities owned by or receiving assistance from certain foreign entities. However, these amendments contain no provision accelerating the phase out of the investment tax credit available for geothermal energy property under section 48, as was proposed in the House bill.

In addition, the transferable deduction for installation of certain energy efficient property in buildings owned by certain government or tax-exempt entities (section 179D) is no longer available for property beginning construction after June 30, 2026.

More information about the bill's provisions relating to the clean energy credits can be found in the Incentives and Credits report on KPMG's dedicated webpage.

Provisions relating to charitable giving

1% floor on corporate charitable contribution deduction

Section 70426 amends Code section 170(b)(2)(A) to permit a corporation to claim a deduction for charitable contributions only if, and to the extent that, the aggregate of such contributions exceeds 1% of the corporation's taxable income (as defined in section 170(b)(2)(D)). Total deductions for charitable contributions by the corporation continue to be limited to 10% of taxable income, with the excess (as well as the contributions disallowed by the 1% floor) carried forward up to five years. However, if aggregate corporate contributions do not exceed 10% of taxable income, there is no carryforward of contributions disallowed due to the 1% floor. The provision does *not* modify the current treatment of qualified conservation contributions by certain corporate farmers and ranchers or by Native Corporations.

The amendment applies to tax years beginning after December 31, 2025.

The JCT has estimated the provision will increase revenues by approximately $16.6 billion over 10 years.

0.5% floor on individual charitable contribution deduction

Section 70425(a) amends Code section 170(b)(1) to permit an individual to claim a deduction for charitable contributions only if, and to the extent that, the aggregate of such contributions exceeds 0.5% of the individual's adjusted gross income (AGI). Total deductions for charitable contributions by an individual continue to be subject to the current limitations (which depend upon the type of contribution and recipient), with the excess (as well as the contributions disallowed by the 0.5% floor) carried forward up to five years. However, if the individual's aggregate contributions do not result in carryover, there is no carryover of contributions disallowed due to the 0.5% floor.

The change applies to tax years beginning after December 31, 2025.

The JCT has estimated that this amendment, together with the extension of the 60% limit described immediately below, will increase revenues by approximately $63.1 billion over 10 years relative to present law and $64.9 billion relative to the current policy baseline.

Permanent 60% limitation on individual charitable contribution deductions

Section 70425(b) makes permanent the current deduction limitation of 60% of AGI (the "60% limit") for charitable contributions of cash made by individuals to public charities (as well as certain private foundations described in section 170(b)(1)(F)) (together, "public charities"), which was enacted as part of the TCJA and would have expired at the end of 2025 absent the extension. The provision also amends the application of the 60% limit, potentially allowing individuals to deduct up to 60% of AGI even when they make aggregate cash contributions to public charities that are less than 60% of AGI and also make charitable contributions of noncash property and/or cash to eligible donees that are not public charities.

The provision applies to tax years beginning after December 31, 2025.

Reinstatement of nonitemizer partial deduction for charitable contributions

Section 70424 modifies and permanently reinstates the partial deduction for charitable contributions for individuals who do not itemize their deductions (previously a temporary provision in the Coronavirus Aid, Relief, and Economic Security (CARES) Act). The maximum deduction amount is increased to $2,000 for married taxpayers filing jointly (previously $600) and $1,000 for all other taxpayers (previously $300). As in the previous iteration, the deduction is only available for contributions made in cash to certain charitable organizations and does not include contributions of noncash property or contributions to supporting organizations, donor advised funds, or most private (non-operating) foundations. Contributions carried forward to the tax year in question are not eligible for this deduction.

The provision is effective for tax years beginning after December 31, 2025.

The JCT has estimated this provision will have a revenue cost of approximately $73.8 billion.

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> **KPMG observation**
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> The House bill would have only temporarily reinstated the partial deduction for charitable contributions for individuals who do not itemize and would have set the maximum deduction amount at $300 for married taxpayers filing jointly and $150 for all other taxpayers.

Credit for individual contributions to scholarship granting organizations

Section 70411 creates a new, nonrefundable tax credit for certain charitable contributions by individuals of cash to organizations described in section 501(c)(3) that are not private foundations and that spend not less than 90% of their income on scholarships for eligible educational expenses of elementary and secondary school students solely within the states that have identified them as eligible organizations (scholarship granting organizations). Students eligible to benefit from the scholarships must be members of households with incomes not greater than 300% of the area median gross income. The credit allowed to a taxpayer for a tax year is limited to $1,700 (with the potential for a five-year carryover). The credit must be taken in lieu of a charitable contribution deduction and is reduced by any amount allowed as a credit on a state tax return.

In addition, any amount provided by a scholarship granting organization for eligible expenses of an eligible student is excluded from the gross income of the student or individual claiming the student as a dependent.

The provision is effective for tax years ending after December 31, 2026.

The JCT estimated the provision will have a revenue cost of approximately $25.9 billion over 10 years.

Employer withholding and reporting

An employer is responsible for reporting and withholding on employee remuneration, including overtime and tips. There is tax reporting for payments to vendors and independent contractors on Form 1099-NEC or Form 1099-K. In addition, a business that pays at least $600 to an individual for services performed by the individual in their trade or business is required to provide a Form 1099-NEC. Payment settlements entities (such as PayPal and Square) are required to report certain payments on Form 1099-K.

No tax on tips

Currently, tips are includible in an individual's gross income and subject to federal income and employment taxes. Section 70201 provides individuals with an income tax deduction equal to the qualified tips received during the year and reported on Form W-2, Form 1099-K or Form 1099-NEC, or reported by the taxpayer on Form 4317, up to a maximum of $25,000. The deduction begins to phase out when a taxpayer's modified adjusted gross income exceeds $150,000 ($300,000 for joint filers).

Under the provision, qualified tips would include any cash tip received in a job that traditionally and customarily receives tips as of December 31, 2024, and meets certain requirements. Tip deductions would only be allowed if the qualified tips were reported on the employee's Form W-2 and independent contractors would only be eligible if there were a separate accounting of qualified tips. Withholding tables and procedures would need to be updated to take into account the tip deduction.

The provision would apply to tax years 2025 through 2028.

The JCT has estimated that this provision will cost approximately $31.7 billion over 10 years.

No tax on overtime

Currently overtime compensation payments received by employees are includible in an individual's gross income and subject to federal income and employment taxes.

Section 70202 enables certain individuals to claim an above-the-line deduction equal to qualified overtime compensation received during the tax year, up to a maximum of $12,500 ($25,000 for joint filers). Qualified overtime compensation is overtime compensation paid in excess of the regular rate of pay in compliance with certain federal rules, but does not include any qualified tips or any amounts received by highly compensated employees. In addition, the deduction starts to phase out when the taxpayer's modified adjusted gross income exceeds $150,000 ($300,000 for joint filers). To take a deduction, the qualified overtime must be separately reported on Form W-2.

This provision is effective for tax years 2025 through 2028.

The JCT has estimated that this provision will cost approximately $89.6 billion over 10 years.

More information about the provisions relating to tip and overtime income can be found in the Compensation and Benefits report on KPMG's dedicated webpage.

Form 1099 reporting threshold increase

Section 6041 and 6041A require filing of certain information returns (generally a return in the Form 1099 series) and furnishing a statement to the payee reflecting information required by regulations or forms and instructions. Section 70433 increases the reporting thresholds under sections 6041 and 6041A from $600 to $2,000, with the threshold indexed for inflation beginning in 2027. A conforming change was also made to the backup withholding dollar threshold to align with the $2,000 reporting threshold. Thus, the Act increases the information reporting threshold and the backup withholding threshold to payments that equal or exceed $2,000 for the calendar year, indexed for inflation.

The changes apply to payments made after December 31, 2025.

The JCT has estimated that this provision will have a revenue cost of approximately $4.2 billion over 10 years.

More information about the Form 1099 reporting threshold increase can be found in the Practice, Procedure and Administration report on KPMG's dedicated webpage.

KPMG observation

The higher dollar threshold, annually adjusted for inflation, would provide welcome relief to Form 1099 filers as the $600 threshold has been in place since 1954. Among the items of income subject to this increased reporting threshold, which are reportable on Forms 1099-MISC, Miscellaneous Information, and 1099-NEC, Nonemployee Compensation, are compensation paid to independent contractors, rent, prizes, and awards.

Employee benefits provisions

Family and Medical Leave Act (FMLA) credit

Section 70304 makes permanent and modifies the credit under section 45S, which provides eligible employers with a credit for providing paid FMLA leave. The credit is modified to allow it to be claimed for an applicable percentage of premiums paid or incurred by an employer for insurance policies that provide paid leave. An employer will be able to elect either a percentage of premiums paid or wages paid (currently, the only option), but not both.

The provision provides that employer-provided paid leave required by state or local government counts toward paid leave provided by the employer for purposes of determining eligibility for the credit but is not taken into account in determining the amount of credit. The provision also requires that an employee be customarily employed for at least 20 hours per week to be a qualifying employee.

The amended version of the credit is effective for tax years beginning after December 31, 2025.

The JCT has estimated the provision will cost approximately $5.5 billion over 10 years.

KPMG observation

The current requirements under section 45S have made it difficult for employers to meet eligibility requirements for the credit, while its temporary nature has made potentially eligible employers hesitant to establish a paid leave program that would be dependent on the tax credit. The current rules requiring paid leave for all employees with no threshold for part-time employees and disregarding paid leave required to be provided by state and local laws have impacted the use of the credit by employers since its enactment. Given the changes made to the law, employers should conisder whether their current leave policies make them eligible for the credit or whether adjusting their policies to become eligible for the credit in future tax years would be attractive.

Employer payment of student loans

Section 70412 makes permanent the temporary exclusion for employer payments of principal or interest on qualified education loans available under section 527. In addition, the provision adjusts for inflation the maximum annual exclusion under section 127 (currently, $5,250) for tax years beginning after 2026.

The amendments are effective for payments made after December 31, 2025.

The JCT has estimated the provision will cost approximately $11.2 billion over 10 years.

KPMG observation

The Act permanently expands the scope of educational assistance that an employer may provide to employees and that employees may exclude from wages under an educational assistance program. Employers that choose to provide this type of assistance after 2025 may need to amend their current written program and provide timely notice to eligible employees.

The maximum annual exclusion for employer-provided educational assistance under section 127 has remained fixed at $5,250 since 1986. The Act provides the first increase to this limit in almost 40 years as well as a shift from a fixed-dollar amount to an inflation-adjusted figure.

Health savings accounts

Section 71306-08 includes a few limited provisions related to health savings accounts (HSA), including:

- Permanent extension of safe harbor for absence of deductible for telehealth services
- Allowance of bronze and catastrophic plans in connection with health savings accounts
- Treatment of direct primary care service arrangements

These amendments generally apply to months beginning after December 31, 2025, except for the permanent extension of the safe harbor related to telehealth services, which applies to plan years beginning after December 31, 2024.

The JCT has estimated these provisions will cost approximately $10.7 billion over 10 years.

Employer contributions to Trump accounts

Section 70204 enacts a new section 128, which allows employer contributions to a “Trump Account” (created under a new section 530A and treated as individual retirement accounts (IRAs)) of an employee or the employee’s dependents. The contributions are not included in the employee’s gross income if made pursuant to a program meeting certain requirements, including requirements similar to those in section 129 for dependent care assistance programs, including nondiscrimination, eligibility, notification, statement of expenses and benefits testing. The contribution with respect to any employee is limited to $2,500, with the limit indexed for inflation starting in 2028.

The amendments are effective for taxable years beginning after December 31, 2025.

The JCT has estimated the provision (together with the establishment of Trump accounts themselves) will cost approximately $15.2 billion over 10 years.

KPMG observation

Certain aspects of the program remain to be set forth in future guidance, including whether the contribution limit is a one-time or annual limit, how the limit applies to an employee with multiple children, and whether the employer contribution may be instituted by salary reduction.

Qualified bicycle commuting benefit

Prior to 2018, the law excluded up to $20 a month in qualified bicycle commuting reimbursement from an employee’s gross income. TCJA suspended the exclusion for 2018–2025. However, the taxable reimbursement is deductible. Section 70112 permanently terminates the exclusion for qualified bicycle commuting expense reimbursement, such that any employer reimbursement of this expense will continue to be taxable going forward. The Act also eliminates the employer deduction for these reimbursements by removing the current exception under section 274(l).

The amendments are effective for tax years beginning after December 31, 2025.

The JCT has estimated that this provision will cost approximately $2 billion over 10 years relative to present law and $2.1 billion over 10 years relative to the current policy baseline.

KPMG observation

Given that bicycle commuting reimbursements have been considered taxable wages to employees since 2018, payroll and benefit systems generally will not need to be updated to reflect the Act. However, the Act makes the taxable employee reimbursement nondeductible by the employer.

More generally related to commuting benefits, the Act does not include a provision of the House bill that would have reinstated the "parking tax" enacted in the TCJA and later repealed, which required expenses for employee qualified transportation fringe benefits provided by tax-exempt organizations to be included in unrelated business taxable income (UBTI).

Qualified moving expense reimbursements

Section 70113 permanently repeals the exclusion of qualified moving expense reimbursements from an employee's gross income (which was temporarily repealed by the TCJA). In addition, the Act expands the exception for members of the U.S. Armed Forces (in effect since the TCJA) to also include members of the Intelligence Community.

The amendments are effective for tax years beginning after December 31, 2025.

The JCT has estimated that this provision will increase revenues by approximately $13.6 billion over 10 years relative to present law and cost $852 million over 10 years relative to the current policy baseline.

KPMG observation

Given that the reimbursement or payment of qualified moving expenses by an employer have been considered taxable wages to employees since 2018, payroll and benefit systems generally will not need to be updated to reflect the Act.

Dependent care assistance program

Section 70404 increases the maximum exclusion for dependent care assistance under section 129 from $5,000 to $7,500. Section 129 allows employers to exclude from employee gross income amounts paid or incurred for employee dependent care provided through a dependent care assistance program.

The amendments apply to tax years beginning after December 31, 2025.

The JCT has estimated the provision will cost approximately $6 billion over 10 years.

Employer provided child care credit

Section 45F currently provides businesses a nonrefundable tax credit of up to $150,000 per year on up to 25 percent of qualified child care expenses provided to employees. Section 70401 of the Act permanently increases this credit and creates a separate credit for qualified small business and indexes both credit amounts for inflation. The maximum credit would increase from $150,000 to $500,000 and the percentage of qualified child care expenses covered from 25% to 40%. For small businesses the maximum credit is increased to $600,000 and the percent of qualified child care expenses covered to 50%. An eligible small business is one that meets the gross receipts test of less than or equal to $25 million (adjusted for inflation) based on the five-year period preceding the tax year.

The amendments apply to amounts paid or incurred after December 31, 2025.

The JCT has estimated the provision will cost approximately $731 million over 10 years.

More information about the employee benefits provisions can be found in the Compensation and Benefits report on KPMG's dedicated webpage.

Barred payment of ERTC claims filed after January 31, 2024

Section 70605 bars the IRS from allowing employee retention tax credits (ERTC) under section 3134 of the Code, or issuing any refund with respect to such ERTCs, after the date of enactment, unless a claim for such credit or refund was filed on or before January 31, 2024. The provision also extends the assessment period for the ERTC.

The JCT has estimated the provision will increase revenues by approximately $1.6 billion over 10 years.

More information about the amendments relating to the ERTC can be found in the Practice, Procedure and Administration report on KPMG's dedicated webpage.

KPMG observation

This provision will have a retroactive, adverse impact on tax-exempt entities (as well as other taxpayers) that filed ERTC refund claims after January 31, 2024. Many tax-exempt entities filed refund claims for the ERTC in 2023 and 2024, as it took longer for many of them to become aware of the credits. In addition, certain public universities and hospitals did not become eligible to file ERTC claims until 2021.

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