OHIO ASSOCIATION OF PUBLIC TREASURERS ANNUAL CONFERENCE

The Overtime Equation:

Tracking & Compliance Under OBBBA

OBBBA Overtime Rules & the Latest IRS Clarifications — Plus FAQs Answered



2026 UPDATE

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For educational purposes only. Information is based on current law and IRS guidance and is subject to change.

ROADMAP

Today's Agenda

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Quick Refresher

Section 225, the deduction, and why FLSA is the SSOT

02

What's Changed Since January

IRS Fact Sheet FS-2026-13 (Aug. 6, 2026) supersedes the January FAQs

03

2026 Reporting Is Now Mandatory

W-2 Box 12 Code TT, penalties, withholding, and the end of transition relief

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Calculating Qualified Overtime

The workweek method and special public-sector work periods

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Practical Examples

Worked scenarios: comp time, public safety, leave, CBAs & reporting

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Action Steps & Resources

What to do now — and where to go for help

01

SETTING THE STAGE

A Quick Refresher



What “No Tax on Overtime” Really Is

REFRESHER

What “No Tax on Overtime” Really Is

Created by the OBBBA (H.R. 1)

Signed into law July 4, 2025; the deduction lives in new **Internal Revenue Code § 225**.

- An employee income-tax deduction — NOT an exemption. Overtime is still wages.
- Available whether the employee itemizes or takes the standard deduction.
- Temporary: tax years 2025 through 2028, retroactive to Jan. 1, 2025.
- FICA, Medicare & withholding still apply to the full overtime dollar.
- It is an employer REPORTING responsibility — not an employer payment.

The one idea to hold onto

The FLSA is the SSOT.

Only overtime **required under Section 7 of the FLSA** qualifies — and only the **premium “half”** of time-and-a-half, not the whole overtime check.

$20/hr regular → $30/hr overtime

Qualified overtime = the **$10 premium** only

The $20 base wage stays fully taxable.

“No tax on overtime” really means: no federal income tax on the FLSA premium, up to a cap.

REFRESHER

The Deduction at a Glance

$12,500

Maximum deduction — single filers

$25,000

Maximum deduction — joint filers

$150K / $300K

MAGI where phase-out begins (single / joint)

2025–2028

Years available — sunsets after 2028

Gating requirements & mechanics

- Valid Social Security number required to claim.
- Married taxpayers must file jointly — no deduction if filing separately.
- Phase-out reduces the deduction $100 for every $1,000 of MAGI over the threshold.
- Claimed by the employee on Schedule 1-A of the Form 1040 — not through payroll.
- Does not reduce gross wages or employer payroll tax.
- New for 2026: deduction is tied to what's reported on the W-2 (more shortly).

02

THE HEADLINE

What’s Changed Since January



On Aug. 6, 2026, the IRS released Fact Sheet FS-2026-13 — superseding the January FAQs (FS-2026-01) and reshaping employer obligations.

IRS UPDATE

Fact Sheet FS-2026-13: The Big Picture

Jul 4, 2025

OBBBA signed — §225 created

Nov 5, 2025

Notice 2025-62 — 2025 penalty relief

Nov 21, 2025

Notice 2025-69 — employee calc methods

Jan 23, 2026

FS-2026-01 — first FAQ set

Aug 6, 2026

FS-2026-13 — supersedes all prior FAQs

What the new fact sheet does

Supersedes the January FAQs

Deletes guidance that applied only to the 2025 transition year.

Adds an employer playbook

New Topic E tells employers exactly how to report, calculate & withhold.

Confirms reporting is mandatory

2026–2028 W-2 reporting via Box 12 Code TT — relief has ended.

Clarifies limits, timing & FLSA

Reorganized into 8 topics (A–H), including federal employees.

CLARIFICATION #1

The 2025 Transition Period Is Over

TAX YEAR 2025 — Transition Relief

- Forms W-2 / 1099 were NOT updated.
- No separate reporting required (Notice 2025-62).
- No penalties for not separately accounting for qualified OT.
- Employees self-calculated from pay stubs (Notice 2025-69).
- Voluntary Box 14 or a separate statement was encouraged.

TAX YEARS 2026–2028 — Mandatory

- Separate reporting is REQUIRED — relief did not extend past 2025.
- Qualified OT goes on Form W-2, Box 12, Code TT.
- Employees may generally deduct ONLY what's reported on the W-2.
- Information-return penalties are back in force ($60–$660 per form).
- Payroll systems must track the FLSA premium from Jan. 1, 2026 forward.

Bottom line: the ball is now in the employer's court. If your payroll system wasn't updated on Jan. 1, 2026, you have a year-to-date compliance gap right now.

CLARIFICATION #2

New W-2 Reporting: Box 12, Code TT

Form W-2 (2026)

Box 12

TT **30,000.00**

Total qualified overtime compensation (the FLSA premium in excess of the regular rate)

Report the full premium — even above the cap

Report the entire qualified overtime paid in Code TT (e.g., **$30,000**) even though the employee's deduction is capped at $12,500 / $25,000. The cap is applied on the **employee's return**, not on the W-2.

Mandatory Box 12, Code TT

Every employer paying FLSA-required overtime to non-exempt staff must separately report the total qualified overtime premium.

1099 payors too

For non-employees, qualified overtime is separately accounted for on Form 1099-NEC / 1099-MISC.

Corrections require a W-2c

If Code TT is understated or wrong, file a Form W-2c with SSA and furnish a corrected copy to the employee promptly.

Errors can trigger penalties

Incorrect or late filings may draw §§6721 / 6722 penalties — reduced amounts apply for timely corrections.

CLARIFICATIONS #3 & #4

Two Rules Employees Must Hear From You

#3 • Deduction Now Follows the W-2

- Beginning in 2026, an employee may generally claim the deduction ONLY for qualified overtime reported on the W-2 (Box 12, Code TT).
- If the employer understates the amount, the employee must obtain a corrected Form W-2c before deducting more.
- Employees may NOT use Form 4852 (substitute W-2) to claim additional overtime that wasn't reported.
- **Translation: your reporting accuracy directly determines what your employees can deduct.**

#4 • Withholding Does NOT Change

- Qualified overtime remains subject to normal federal income-tax withholding, Social Security, Medicare and FUTA.
- An employer may NOT reduce withholding for the deduction unless the employee submits an updated, valid Form W-4 reflecting the expected deduction.
- The benefit is realized when the employee files — not through smaller paycheck withholding.
- **Set expectations early to head off the "why didn't my check change?" questions.**

CLARIFICATIONS #5 & #6

Owner-Employees & Penalty Exposure

#5 • 20%+ Owner-Employees Are Out

Individuals who own at least 20% of the business and actively participate in management generally **cannot deduct** their overtime — they're treated as exempt executive employees under the FLSA. Rarely an issue for a municipality, but relevant for related enterprises and contractors.

Also expanded: guidance for the workweek & regular rate

- New FAQs explain how to determine the FLSA workweek, count FLSA hours worked, and figure the regular rate of pay.
- A dedicated section addresses federal-employee scenarios.
- The DOL's PAID program training is referenced for employers needing help.

#6 • Penalties Are Real Again

$60 – $660

per W-2, depending on timing and business size

- § 6721 — failure to file correct information returns.
- § 6722 — failure to furnish correct payee statements.
- Reasonable-cause relief may apply — but you must show the failure was not willful neglect and that you acted responsibly.
- Document your compliance efforts (system upgrades, vendor coordination, training) to support that defense.

03

THE MECHANICS

Calculating Qualified Overtime



The workweek method, the special public-sector work periods, and the calculations behind your questions.

CALCULATION

The Core Formula: One Workweek at a Time

Qualified OT (per workweek) = (FLSA hours over 40) × ½ × FLSA regular rate

Each workweek stands alone

A workweek is a fixed, recurring 168-hour (7 × 24) period. Hours cannot be averaged across two or more workweeks.

Count hours actually worked

You can't determine the regular rate or overtime owed without knowing hours truly worked that week — leave doesn't count as "worked."

Only the ½ premium is 'qualified'

The regular-rate portion of overtime is fully taxable; only the extra half is qualified overtime compensation.

Worked example: $20 regular rate, 6 FLSA overtime hours in the week → 6 × ½ × $20 = **$60 qualified overtime** (the $120 of base wages for those hours does not qualify for the deduction).

PUBLIC SECTOR

Special FLSA Work Periods — § 207(k)

Police and fire may be paid overtime on a "work period" basis (7 to 28 consecutive days) instead of a 40-hour week. The threshold scales with the length of the period.

Work Period (days)	Fire Protection — OT after	Law Enforcement — OT after
7 days	53 hours	43 hours
14 days	106 hours	86 hours
28 days (max)	212 hours	171 hours

Key points for QOT

- Only hours OVER the applicable threshold are FLSA overtime — and only the premium half of those is qualified.
- If you pay OT before the FLSA threshold (e.g., after 96 hrs when the law requires 106), the extra is generous, not FLSA-required — and not deductible.
- The reporting period should match the FLSA work period actually used for that employee group.
- Agencies with fewer than 5 covered public-safety employees may be exempt from FLSA OT altogether.

04

MAKING IT CONCRETE

Putting the Rules to Work



Common real-world scenarios for Ohio government payrolls — worked through step by step.

Compensatory Time in Action

1 The comp-time cash-out

THE SITUATION

Maplewood banks police overtime as comp time at 1.5×. Officer Reyes cashes out 30 banked hours at her $30 regular rate — a $900 payout on this year's W-2.

HOW IT'S TREATED

Because the hours were banked at the 1.5× FLSA rate, the premium is embedded. One-third of the payout is the FLSA premium and qualifies; report it in Box 12, Code TT.

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$900 payout ÷ 3 = $300 qualified
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2 Comp time taken as leave

THE SITUATION

A public-works employee uses 16 comp hours as paid time off instead of cashing them out. The hours are paid at his regular rate as ordinary wages.

HOW IT'S TREATED

No cash overtime payout occurred, so nothing qualifies — comp time used as leave is excluded. The deduction appears only when comp time is paid out as wages.

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$0 qualified — no payout, no deduction
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Rule of thumb: no cash payout, no deduction. When 1.5×-earned comp time IS paid out, one-third of the dollars paid is the qualified premium.

Comp Time: The Tricky Cases

1 Banked at 1.5×, paid at straight time

THE SITUATION

The village banks OT at 1.5× but pays comp cash-outs at the straight regular rate. A worker cashes out 20 banked hours at $25 = a $500 payout.

HOW IT'S TREATED

Trace the payout to the FLSA premium originally earned. Since the banked hours captured the 1.5× premium, one-third of the cash-out qualifies — the straight-rate payout doesn't change that.

$500 ÷ 3 = $167 qualified

2 Comp earned in a holiday week

THE SITUATION

An employee worked 36 hours plus took an 8-hour holiday. Under policy she 'earned comp time,' though she never worked over 40 actual hours that week.

HOW IT'S TREATED

The extra pay wasn't FLSA-required overtime (actual hours worked ≤ 40). When later cashed out it doesn't qualify — only FLSA-mandated premiums count.

$0 qualified — not FLSA overtime

Key: trace every payout back to whether it represents an FLSA-required premium. If yes and banked at 1.5× → one-third qualifies.

PRACTICAL EXAMPLES — PUBLIC SAFETY

Fire & Police Work Periods

1 Firefighter over the 106-hour threshold

THE SITUATION

A firefighter works 120 hours in a 14-day work period. The department pays those hours at the base rate; the FLSA regular rate is $22/hour.

HOW IT'S TREATED

Hours over 106 (here, 14) are FLSA overtime. Even paid at base rate, the FLSA still requires a half-time premium — compute 0.5 × rate × 14 hours separately from the check.

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0.5 × $22 × 14 = $154 qualified
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2 A more generous local trigger

THE SITUATION

A city pays fire overtime after 96 hours in a 14-day period, but the FLSA only requires it after 106 hours.

HOW IT'S TREATED

Only hours over the FLSA threshold of 106 are 'qualified.' The hours between 96 and 106 are generous local pay — reportable as overtime, but not deductible.

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Only hours 107+ qualify
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Consistent theme: the FLSA threshold — not your (often more generous) local trigger — defines qualified overtime. (7-day: 53/43 • 28-day: 212/171.)

Leave, Holidays & the 40-Hour Week

1 Vacation fills the week

THE SITUATION

Sam works 32 hours and takes 8 hours of vacation (40 total on the check), then works 8 additional hours in the same workweek.

HOW IT'S TREATED

FLSA overtime counts only hours actually WORKED over 40. Sam worked 40 actual hours, so the extra 8 are policy overtime — not FLSA-required, and not qualified.

$0 qualified — 40 actual hours worked

2 Overtime in a holiday week

THE SITUATION

During a week with a paid holiday, an employee works 44 actual hours. The employer includes holiday pay as base pay.

HOW IT'S TREATED

Only the FLSA premium on the 4 hours actually worked over 40 qualifies. Holiday hours not worked don't count toward 40, and holiday premium not tied to the FLSA threshold is excluded.

Premium on 4 worked OT hours qualifies

One test governs all of these: were there more than 40 hours actually WORKED that week? Only that excess drives qualified overtime.

Daily OT, Call-In & Double-Time

1 Daily overtime by contract

THE SITUATION

A CBA pays overtime after 8 hours in a day. An employee works four 9-hour days — 36 hours total — and earns 4 hours of 'daily OT.'

HOW IT'S TREATED

Daily OT required only by contract isn't FLSA overtime unless weekly hours worked also exceed 40. Here 36 < 40, so none of it qualifies for the deduction.

$0 qualified — under 40 weekly hours

2 Call-in minimum & calamity double-time

THE SITUATION

An employee is called in, works 2 hours, but is guaranteed 4 hours' pay. Separately, a union calamity clause pays double-time on a snow day.

HOW IT'S TREATED

Hours paid but not worked (the 2-hour guarantee) aren't hours worked. On double-time, only the FLSA-required half qualifies — the amount above it is excluded.

Only the FLSA half-time premium qualifies

Recurring answer: strip out anything more generous than the FLSA requires — only the FLSA-mandated premium half is deductible.

Regular Rate, W-2 & the Payroll Vendor

1 Shift differential changes the rate

THE SITUATION

An employee earns $20/hour plus a $2 shift differential and a nondiscretionary bonus. Overtime falls in that same pay period.

HOW IT'S TREATED

The FLSA regular rate includes shift differentials and nondiscretionary bonuses — so recalculate it that period (it's higher than base pay). Report the FLSA half-time premium in Box 12, Code TT.

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Regular rate > base → recalc each period
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2 1099 worker & the payroll vendor

THE SITUATION

The city runs payroll through Paycor and also pays a 1099 contractor overtime. Who reports it — and who is responsible if it's wrong?

HOW IT'S TREATED

Qualified overtime is separately accounted for on the 1099 when applicable. Your vendor configures the tracking and populates Code TT, but the reporting duty and penalty exposure stay with the employer.

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Employer — not the vendor — owns it
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Report the FLSA half in Box 12 Code TT; the regular rate includes differentials/bonuses; and the employer owns compliance — get vendor readiness in writing.

STATE IMPACT

What About Ohio Income Tax?

No direct hit to Ohio revenue

- Ohio starts from federal ADJUSTED gross income (AGI).
- The overtime deduction is taken from taxable income — below AGI — so it does NOT reduce Ohio AGI.
- Result: no meaningful impact on Ohio state income tax or the state's revenue base.
- Ohio municipal and school-district taxes also generally start from federal AGI — watch for any conformity updates.
- Contrast: states that begin from federal TAXABLE income could see a real revenue effect.

Where the deduction sits

Gross Wages

– Above-the-line items

= Federal AGI ← Ohio starts here

– Standard / itemized deductions

– Overtime deduction ← sits here

= Federal taxable income

WHAT TO DO NOW

Action Steps for Ohio Government Employers

1

Identify & segregate

Flag FLSA-covered, non-exempt employees. Separate the FLSA premium from state/CBA/holiday premiums in your pay codes.

2

Configure payroll & comp time

Ensure systems compute the workweek premium and track comp-time payouts — confirm your vendor supports Box 12 Code TT.

3

Build reporting controls

Populate Code TT accurately, run pre-filing spot checks, and set internal deadlines ahead of SSA due dates.

4

Train & communicate

Prepare payroll/HR staff and set employee expectations — reported qualified OT will be less than total OT, and withholding won't change.

5

Document everything

Keep FLSA determinations, work schedules, calculations & vendor correspondence to support a reasonable-cause defense.

6

Monitor guidance

Track further IRS/DOL updates and the finalized 2026 forms; revisit policies as guidance evolves.

KEY TAKEAWAYS

Five Things to Carry Home

1	**The FLSA is the SSOT**	Only FLSA-required overtime qualifies — and only the premium ‘half.’ Anything more generous is excluded.
2	**2025 relief has ended**	For 2026–2028, separate W-2 reporting in Box 12 Code TT is mandatory, and penalties are back.
3	**Your reporting drives their deduction**	Employees can generally deduct only what you report; understatements require a W-2c.
4	**Comp time = only when paid out**	Deductible when cashed out (⅓ of a 1.5× payout) — never when accrued or taken as leave.
5	**IRS Guidance**	When in doubt, reference IRS Fact Sheet FS-2026-13.

GO DEEPER

Where to Go for the Details

IRS Fact Sheet FS-2026-13

The current FAQ set (Aug. 6, 2026) — Topics A–H, including the employer playbook and withholding rules.

IRS Notice 2025-69

Employee calculation methods and examples for the 2025 transition year.

IRS Notice 2025-62

2025 penalty-relief details and the transition-period framework.

2026 Form W-2 & Instructions

Confirms Box 12 Code TT reporting and the mechanics for 2026 filing.

Rea Government Services Team

Help with police/fire wages, comp time, payroll configuration & reasonable-cause documentation.

OPEN FLOOR

Questions



QUESTIONS & DISCUSSION

Thank You



"No tax on overtime" is really a deduction for the FLSA premium portion of overtime — subject to caps, reporting rules, and a 2028 sunset. Manageable, with the right systems and controls.

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