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Executive Compensation & Employee Benefits Update July 24, 2025

An Employer's Guide to Key Compensation and Benefits Provisions in the One Big Beautiful Bill Act

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On July 4, 2025, President Trump signed into law the "One Big Beautiful Bill Act" (the Act), a tax and spending package. Employers are advised to take note of certain provisions of the Act related to employee benefits and compensation matters, which are summarized below. Most of the employee benefits-related changes will be effective January 1, 2026, except as otherwise noted below.

Tips and Overtime Deductions

The Act provides temporary gross income deductions for (i) "qualified tips" and (ii) the overtime-premium portion of FLSA overtime pay. Beginning with the 2025 tax year and continuing through 2028, employees (and eligible self-employed individuals) may deduct up to $25,000 of qualified tips each year, while individuals may deduct up to $12,500 of overtime premiums (or $25,000 for joint filers). Both deductions phase out once modified AGI exceeds $150,000 ($300,000 for joint filers) and are available whether or not the individual itemizes deductions. Importantly, the tips deduction is limited to occupations the IRS identifies by October 2, 2025 as "customarily and regularly" tipped as of December 31, 2024, and is unavailable to employees (or self-employed taxpayers) in specified service trades or businesses.

For employers, these provisions create new information-reporting and payroll-coding obligations beginning with wages paid in 2025. Employers must file information returns and furnish annual statements that separately state (a) cash tips meeting the Act's requirements and the recipient's occupation, and (b) total qualified overtime compensation. The IRS has promised transition relief for 2025, but W-2 and 1099 layouts, time-and-attendance systems, and payroll codes will need to be updated before 2026 to capture and report these amounts accurately in the future. Employers in hospitality, food service, retail, and other high-tip or overtime-heavy sectors should begin coordinating with payroll vendors, review classification practices, and train managers on the heightened importance of contemporaneous tip and overtime tracking.

Health Savings Accounts

Several changes to Health Savings Accounts (HSAs) were made by the Act, including:

- *Coverage of Direct Primary Care Arrangements*. Direct primary care arrangements—which provide access to certain primary care services for a fixed monthly fee—will not be considered disqualifying coverage for purposes of HSA eligibility, so long as the membership fee does not exceed $150 per month for an individual or $300 per month for a family (indexed for inflation). There had been uncertainty prior to the Act whether direct primary care services were compatible with High Deductible Health Plans (HDHPs) and HSAs because the monthly fee that covers office visits was payable prior to the satisfaction of the HDHP deductible. After passage of the Act, direct primary care fees within the statutory limits are qualified medical expenses that are eligible for reimbursement from an HSA.
- *Telehealth Services Available without Regard to HDHP Deductible.* During the COVID-19 pandemic, Congress temporarily allowed HDHPs to allow participants access to telehealth services irrespective of whether the minimum HDHP deductible had been met (i.e., allowed for "first-dollar coverage" for telehealth services). The Act permanently extends this telehealth relief so that HDHPs may provide first-dollar coverage of telehealth or other remote care services without impacting HSA This provision of the Act is effective for all plan years beginning on or after January 1, 2025.

Increased Dependent Care FSA Limits

The Act increases the annual limit on dependent care FSA contributions, the first increase in the amount since 1986. In 2026, the limit will increase to $7,500 (or $3,750 for married couples filing separately). Although the increased contribution limit may help employees cover rising childcare costs, this increase may make it more difficult for plans to pass the 55% Average Benefits Non-Discrimination Test, which is based on utilization, because more highly compensated employees tend to utilize FSAs as compared to non-highly compensated employees.

"Trump Accounts" – Child Savings Program

Section 503A of the Act created new tax-preferred savings accounts for children, similar to individual retirement accounts (IRAs), referred to as "Trump Accounts." The accounts may be established for children under the age of 18 with contributions of up to $5,000 per year (indexed for inflation) permitted until the calendar year in which the beneficiary reaches the age of

18. U.S. citizens born between 2025 and 2028 with U.S. social security numbers will be automatically enrolled for such accounts and receive a $1,000 one-time contribution from the federal government. Investments are limited to qualified broad-based market index funds and will grow on a tax-deferred basis. Distributions are generally prohibited until the first day of the calendar year in which a child attains age 18 and are generally subject to the same rules as IRA distributions, but with several exceptions to the 10% early withdrawal penalty that typically applies for withdrawals before age 59 ½ for qualified expenses such as qualified higher education expenses or the first-time purchase of a principal residence.

Employers may adopt Trump Account contribution programs and contribute up to $2,500 per year (as indexed for inflation) on a tax-free basis to the Trump Account of an employee or an employee's dependent; however, such contributions will count against the annual $5,000 contribution limit. Employers that wish to do so must adopt written plan documents and the program must meet nondiscrimination requirements similar to those applicable to dependent care FSAs.

Student Loan Repayment Assistance

Section 127 of the Internal Revenue Code (the Code) allows employers to sponsor qualified educational assistance programs that provide employees, on a tax-free basis, up to $5,250 per year for certain education expenses, such as tuition and related fees. During the COVID-19 pandemic, Congress temporarily allowed student loan payments to qualify as education expenses allowable under these programs. The Act makes permanent employers' ability to pay or reimburse student loan payments on a tax-free basis through qualified education assistance programs.

In addition, the $5,250 annual limit for qualified education assistance programs will be indexed for inflation starting in 2026.

Fringe Benefits

- *Moving Expense Deductions*. In 2017, the Tax Cuts and Jobs Act disallowed the moving expense deduction and employer-reimbursed moving expense income exclusion, but the suspension was set to lapse at the end of 2025. The Act makes the disallowance permanent. Employers should be aware that moving expenses will continue to be includible as taxable compensation for employees.
- *Bicycle Commuting Reimbursement.* The Act permanently eliminates the exclusion from an employee's gross income the $20/month bicycle commuting employer reimbursement, which had been temporarily suspended by the Tax Cuts and Jobs Act through the end of 2025.

Executive Compensation Changes

Code Section 162(m) generally limits the annual compensation deduction for publicly held corporations to $1 million per covered employee. Current Treasury regulations under 162(m) apply affiliated group rules under Code Section 1504 to determine the nondeductible amount of compensation. For tax years beginning in 2026, the Act changes the aggregation rule under Code Section 162(m) to include all members of a corporation's controlled group and affiliated service group, as determined under Code section 414, for purposes of both determining covered employees and calculating the deduction limit. The $1 million deducible compensation limit will be allocated to each member of the controlled group or affiliated service group based on the pro-rata portion of the total compensation paid by that member.

With respect to tax-exempt organizations, the Act expands the application of Code Section 4960's existing 21% excise tax on employers that paid more than $1 million in remuneration in a year to certain highly paid employees or paid an "excess parachute payment" to a covered employee to apply with respect to any employee or former employee of the tax-exempt organization who was employed in 2017 or later years.

Employer Tax Credits for Family and Medical Leave, Child Care

The Act permanently establishes a paid family medical leave credit (that was set to expire in 2025), which allows an employer to offset the costs of that benefit with credits against wages paid to qualifying employees on family and medical leave. Employers are allowed to elect a credit amount of either the percentage of wages paid to qualifying employees on family and medical leave or the percentage of premiums paid or incurred for family and medical leave insurance. In addition, the Act allows employers to consider employees with six-months' tenure as qualified employees that can be taken into account for the credit (the minimum service requirement previously had been one year).

The Act also makes permanent employer tax credits for childcare and increases the employer-provided child tax credit up to $500,000 on up to 40% of the employer's qualified childcare expenses and indexes the amount of the credit for inflation.

The following Gibson Dunn lawyers assisted in preparing this update: Michael Collins, Sean Feller, Krista Hanvey, Christina Andersen, and Spencer Bankhead.

Gibson Dunn's lawyers are available to assist with any questions you may have regarding these issues. To learn more about these developments, please contact the Gibson Dunn lawyer with whom you usually work, the authors, or any leader or member of the firm's Executive Compensation & Employee Benefits practice group:

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