

## O'Neil & Steiner, PLLC

### No Tax on Overtime Information Sheet

The One Big Beautiful Bill Act (OBBBA) created an additional “above line” (you can claim it without itemizing) for tax years 2025-2028 that is referred to as the No Tax on Overtime deduction.

The Fair Labor Standards Act (FLSA) established mandatory overtime pay at “time-and-a-half” or 1.5 times normal rate of pay for “nonexempt employees” who work more than 40 hours in a week. Exempt employees are not included and are not qualified for this deduction. If you are exempt under one or more of the following categories you are not eligible for this deduction.

1. Professional exemption: This exemption removes professionals with roles that require “advanced knowledge” who are paid a salary of at least \$684 per week (\$35,568 annually) whose primary duty is intellectual and requires the consistent exercise of discretion and judgment. This includes teachers, lawyers, doctors, CPAs and other accountants, engineers, architects, creative professionals, and more.
2. Executive exemption: This exemption removes employees with a primary duty of managing an enterprise or department if they regularly direct the work of at least two full-time employees, and they have authority to make hiring and firing decisions.
3. Administrative Exemption: This exemption removes employees who perform non-manual work related to management or business operations and exercise discretion on important matters. This can include academic administrators like principals who handle instructional administration.
4. Computer Employee Exemption: This exemption removes certain computer professionals who are paid a salary of \$27.63 per hour or more. This includes analysts, programmers, and engineers, if their job requires specialized skills in systems analysis, design, or modification.
5. Outside Sales Exemption: This exemption removes employees whose main job is making sales or securing orders away from the employer's business premises.
6. Highly Compensated Employees (HCE): This exemption removes employees in office or non-manual roles earning at least \$151,164 annually (including at least \$1,128 per week on a salary basis) if they consistently and regularly perform at least one executive, administrative, or professional duty.
7. Miscellaneous Exemptions: Other exemptions include employees in certain seasonal amusement parks, small farms, small newspapers with less than 4,000 circulation, some transportation workers involved in vehicle safety in interstate commerce, employees governed under separate laws (like railroad employees), and more.

For everyone else, nonexempt employees under FLSA, this deduction is limited to the overtime “premium” mandated by FLSA. The deduction allows each taxpayer to reduce their otherwise taxable income by up to \$12,500 of qualified overtime “premium”. Important details to understand include the following:

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1. Married filing separately filers are not eligible for the deduction.
2. "Premium portion": Only the "half" or "premium" portion of overtime hours worked is eligible for the deduction. For example, if a nonexempt employee's normal pay rate is \$20 per hour, their overtime pay rate would be \$30 per hour. Only the overtime premium portion, \$10 above their normal pay rate, is eligible for this deduction. The first \$20 per hour for overtime hours is still taxable.
3. All overtime pay is still subject to federal withholding, Social Security, Medicare, and state withholding payroll taxes. For this reason, employees working overtime will not see an increase in net pay compared to overtime paychecks prior to the legislation. Tax savings will be found when filing tax returns rather than on payday.
4. If employers have more generous overtime policies based on company preference, union contracts, or state/city law policies than is required by FLSA, only the FLSA mandated portion is eligible. Examples of more generous policies include:
  - a. Increased pay for weekend/holiday (limited to hours above 40 per week),
  - b. Overtime for hours above 36 hours per week rather than 40 (limited to hours above 40 per week),
  - c. Daily overtime for hours worked above 8 hours per day (limited to hours above 40 per week)
  - d. Overtime paid at double the normal rate of pay (only one-half of normal pay rate is eligible).
5. If both spouses of a married filing joint couple have qualified overtime, they can exclude up to \$12,500 of each of their qualified overtime pay (up to \$25,000 total if they both have at least \$12,500 qualified overtime premium pay).
6. The deduction is subject to income phaseouts for single taxpayers with Modified Adjusted Gross Income (MAGI) over \$150,000 for single filers or \$300,000 for married couples filing jointly.
7. Self-employed taxpayers are not eligible for the deduction.
8. Taxpayers must have a Social Security Number valid for employment for this deduction.
9. Beginning with tax year 2026 code TT is required in box 12 of W-2 forms to report amount of qualified overtime premium. For tax year 2025 employers can include the amount on W-2 box 14, in a separate statement, on an online portal, or leave the calculation for the employee to perform.

If you are a non-exempt employee and received qualified overtime pay, please complete our No Tax on Overtime Organizer included on the next page.

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No Tax on Overtime Organizer:

1. Are you a nonexempt employee covered by the Fair Labor Standards Act (FLSA) required to receive overtime pay at time-and-a-half, or 1.5 times normal rate of pay?

Circle One:    No    or    Yes

If no = stop here. You do not qualify for this deduction.

2. Did your employer pay overtime compensation at more than the mandated time-and-a-half rate or for hours that did not exceed 40 hours per week?

Circle One:    Yes    or    No

3. How much did you receive in “Qualified Overtime Premium Pay” (the portion of overtime pay that was in excess of your normal rate of pay for the overtime hours worked)?

*Example: John is paid \$30 an hour and sometimes works 50 hours a week instead of 40. 10 hours per week is overtime and paid at time-and-a-half, 1.5 normal pay, or \$45 per hour. His total overtime pay would be 10 hours X \$45 per hour = \$450 total overtime pay. His qualified overtime premium pay would be: 10 hours X \$15 per hour = \$150 per week. If he worked 40 hours per for 42 weeks of the year, and 50 hours per week for the remaining 10 weeks, his qualified overtime premium pay would be:  
\$150 “Qualified Overtime Premium Pay” per week X 10 weeks = \$1,500.*

*Your employer may not calculate this for you for tax year 2025. If they do calculate it for you it may appear in box 14 of your W-2 form, on a separate statement, in an online employee portal as additional information, etc.*

*If it is not calculated for you, but your answer to #2 was “No”: Review your final paystub for the tax year and divide total overtime pay by 3 as follows:*

*Total overtime pay above ÷ 3 = “Qualified Overtime Premium Pay”*

*If it is not calculated for you, and your answer to #2 was “Yes”, please contact your employer to request their help or schedule a consultation to determine your “Qualified Overtime Premium Pay.”*

Qualified Overtime Premium Pay for \_\_\_\_\_ was:    \$ \_\_\_\_\_  
(first name)

Qualified Overtime Premium Pay for \_\_\_\_\_ was:    \$ \_\_\_\_\_  
(first name)

\*If married filing jointly, please include total overtime for each spouse separately above\*