

One Big Beautiful Bill: Effect on Exempt Organizations

July 3, 2025

The sweeping tax package known as the One Big Beautiful Bill (OBBB), which passed on July 3 and is expected to be signed by President Donald Trump by July 4, brings notable changes for tax-exempt organizations, including new limits on charitable deductions and a broader reach for the excise tax on executive compensation. While some feared provisions didn't survive the final version, others—like the return of the charitable deduction for non-itemizers—are now permanent law.

It will affect compensation structures and donor giving strategies:

Expanded Application of Excise Tax on Excess Compensation

Under Section 4960, many tax-exempt organizations must pay an excise tax if they pay covered employees more than \$1 million or make excess parachute payments. The amount of the excise tax is 21% of the remuneration paid to covered employees in excess of \$1 million plus 21% of any excess parachute payment.

The OBBB expands the definition of "covered employee." Currently, a covered employee means either (a) one of the five highest compensated employees of the organization for the taxable year or (b) an employee who was a covered employee for the organization (or a predecessor) for any preceding taxable year after 2016.

Under the OBBB, the excise tax has been expanded beyond the five highest compensated employees, and now effectively captures any employee or former employee (who was an employee after 2016). Therefore, exempt organizations—particularly those with several employees earning more than \$1 million—may wish to reconsider some of their compensation plans. Even those employers who don't regularly compensate employees above this threshold need to be mindful of the application of the excess parachute payment aspect of 4960. While the OBBB significantly expands the class of individuals who could potentially be affected, it is also important to note that payments made to NHCEs continue to be excluded from the definition of excess parachute payments.

In the House version of the OBBB, covered employees also included anyone who was a covered employee before 2017, but that exception was reinserted in the final version.

Direct Pay Retained for Energy Credits

The OBBB does not repeal Section 6417, the elective pay (also known as "direct pay") provision that allows tax-exempt organizations and local governments access to clean energy credits. However, the OBBB repeals and modifies several energy credits from the Inflation Reduction Act, effectively eliminating the direct pay benefit. [Miller Canfield will soon publish additional guidance regarding the changes made by the OBBB to energy credits.]

Changes to Charitable Deductions

The OBBB made the following changes regarding charitable deductions:

- **Corporate Donors:** Corporations may now claim deductions for charitable contributions only if the aggregate of such contributions exceed 1% of the corporation's taxable income. The 10% limit on charitable deductions for corporations will continue to apply. Disallowed deductions from the 1% floor and 10% limit can be carried forward

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five years. But if aggregated corporate contributions do not exceed 10% of taxable income, there can be no carryforward of contributions disallowed due to the 1% floor.

- **Individual Donors:** Individuals may now claim deductions for charitable contributions only if, and to the extent that, the aggregate of their contributions exceeds 0.5% of that individual's adjusted gross income. The current upper limitations (generally 50% or 60% of gross income depending on the situation) will continue to apply. Like for corporations, disallowed deductions from the 0.5% floor or the limit can be carried forward five years. But if aggregated individual contributions do not exceed the upper limit, there can be no carryforward of contributions disallowed due to the 0.5% floor.
- **60% Limit Made Permanent:** The Tax Cuts and Jobs Act increased the charitable deduction limitation for cash contributions made by individuals from 50% to 60% of the donor's adjusted gross income. The increase was set to expire at the end of 2025. But the OBBB made this 60% limit permanent.
- **Reinstatement of Nonitemizer Partial Deduction:** Normally, individuals who do not itemize their deductions cannot deduct charitable deductions. The OBBB brings back and makes permanent a temporary provision from 2021 that allows non-itemizers to claim charitable deductions up to \$2,000 for married couples and \$1,000 for everyone else.

Items in the House Bill that did not make it into final bill

- An increased tax rate for the 1.39% excise tax for private foundations on net investment income under Section 4940.
- A requirement to include certain transportation fringe benefits (such as parking) in Unrelated Business Taxable Income.
- A provision which would allow exempt organizations to exclude income from research from UBTI only the income that is derived from fundamental research and only if the results of the research are made freely available to the general public.
- An amendment to excess business holdings rules for private foundations so that certain voting stock re-purchased by a business enterprise from an employee stock ownership plan would be treated as outstanding stock.

If you have questions about the OBBB, please contact your Miller Canfield attorney or one of the authors of this alert.