

NO TAX ON OVERTIME: ADDITIONAL GUIDANCE



ONLY THE FLSA OVERTIME PREMIUM IS DEDUCTIBLE

- Workers cannot deduct their entire overtime pay. Only the **premium portion above the regular hourly rate** up to the time-and-a-half required under the Federal Labor Standards Act (FLSA) qualifies.
- Example 1: FLSA overtime minimum
 - Regular pay: **\$20/hour**
 - Overtime pay: **\$30/hour**
 - Deductible amount: **\$10/hour overtime premium**
- Example 2: Double time
 - Regular pay: **\$20/hour**
 - Overtime pay: **\$40/hour**
 - Deductible amount: **\$10/hour overtime premium**
- The regular hourly wage portion **cannot be deducted**.



WORKERS MAY NEED TO CALCULATE THE DEDUCTION THEMSELVES

- For tax year 2025, there is **no universal employer reporting requirement** for qualified overtime compensation.
- Workers may need to **calculate their own eligible overtime deduction** when filing their taxes.
- If the employer does not include the qualified overtime calculation on a worker's W-2, the IRS requires taxpayers to follow the calculation methods outlined in **IRS Notice 2025-69**.



COMPLEX TAX FILING EXPECTED

- Tax experts expect this provision to make filing taxes more complicated.
- Several factors contribute to this:
 - The deduction requires separating **qualified overtime premium pay** from total wages.
 - The IRS has lost **over 25,000 employees since 2025**, which could slow processing and enforcement.
 - Experts are warning of a **confusing or delayed tax filing season** as workers and employers adjust to the new rules.



STATE TAXES MAY TREAT OVERTIME DIFFERENTLY

- Even though overtime may be deductible on **federal taxes**, states can choose how to handle the deduction.
- States generally have three options:
 - **Full conformity**
 - State automatically adopts the federal deduction.
 - **Partial conformity**
 - State adopts some federal tax changes but not others.
 - **Non-conformity**
 - State rejects the deduction and requires taxpayers to **add the overtime deduction back to state taxable income**.
- Some states have already indicated they **do not plan to adopt the deduction** for state taxes.



MORE TYPES OF OVERTIME THAT DO NOT QUALIFY

- The federal deduction only applies to overtime required under the **Fair Labor Standards Act**.
- Additional overtime pay that **does not qualify** includes:
 - Overtime required under **state labor laws with different thresholds**
 - **Voluntary overtime premiums** offered by employers
 - Certain **contractual overtime provisions** beyond federal requirements
 - Other forms of premium pay not required by the FLSA

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