

OB3 Plus: Implications of OB3 and Additional Legislation and Guidance

Moderator –

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Speakers –

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Summary - The Federal Bar Association OB3 panel focused on the implementation of and ongoing guidance related to the “One Big Beautiful Bill Act” (OBBBA or OB3), a sweeping piece of legislation that significantly impacts both domestic and international tax law. OB3 makes permanent many provisions originally enacted under the Tax Cuts and Jobs Act while also introducing new rules and modifying existing provisions across the Internal Revenue Code. In addition, the legislation limits certain energy-related tax credits that were previously expanded under the Inflation Reduction Act. The panel emphasized that OB3 is broad in scope and continues to require substantial interpretive guidance from the government.

IRS and Treasury Guidance - The Internal Revenue Service and the Treasury Department are using multiple tools to communicate their priorities and provide guidance. The 2025–2026 Priority Guidance Plan has been heavily focused on OB3, reflecting its central importance. In addition, the semiannual regulatory agenda provides insight into both regulatory and deregulatory priorities.

Guidance generally falls into two categories. First, formal regulations follow the Administrative Procedure Act process, beginning with proposed rules, followed by public comment, and ending with final regulations. Second, sub-regulatory guidance includes notices, revenue procedures, revenue rulings, and similar documents. The panel noted a recent increase in the use of notices, which are being used to provide immediate guidance, particularly where provisions are retroactive, and to allow early engagement with taxpayers before formal regulations are issued.

Individual Tax Provisions - With respect to individual tax provisions, the panel discussed several new and modified rules under OB3. One key provision is the scholarship granting organization credit under Section 25F, which allows taxpayers to claim up to a \$1,700 nonrefundable credit for contributions. The government has received numerous comments on issues such as the 90/10 funding rule, the definition of eligible students, and how states coordinate participation, and regulations are currently under development.

The panel also highlighted expansions to health savings accounts. These include permanent eligibility for telehealth services prior to meeting deductibles, the inclusion of bronze and catastrophic ACA plans as qualifying high-deductible plans, and the ability to use HSA funds for direct primary care arrangements subject to certain limits.

Tips and Overtime Guidance - The panel further addressed new rules related to tips and overtime income. Because these provisions apply beginning in 2025, the government has issued multiple notices to provide transition relief and clarify reporting requirements. These notices include penalty relief for employers and guidance for taxpayers on how to calculate deductible amounts in the absence of detailed reporting.

Proposed regulations defining qualifying tipped occupations have already been issued, and final regulations are expected in the near future. The overall approach reflects a reliance on notices to bridge the gap between statutory changes and formal regulatory guidance.

Retirement and Benefits - In the retirement and benefits space, the panel noted that work is continuing on provisions from the SECURE 2.0 Act alongside OB3-related changes. The IRS has structured its internal teams to handle these overlapping priorities efficiently, with different groups focusing on specific subject areas such as qualified plans and new account structures.

Corporate Alternative Minimum Tax (CAMT) - On the corporate side, the panel highlighted developments related to the Corporate Alternative Minimum Tax. Since its enactment, multiple notices have been issued addressing complex issues such as partnerships, consolidated groups, and fair value accounting.

The government plans to re-propose a comprehensive set of regulations by the end of the year, incorporating prior notices and public feedback. Officials emphasized that they are particularly interested in comments addressing compliance burdens, indicating that further refinement of the rules is likely.

International Tax Priorities - Turning to international tax, the panel explained that Treasury's efforts are currently divided into two primary tracks: OB3 implementation and deregulation. Implementation is being prioritized based on effective dates, with 2025 provisions addressed through notices and 2026 provisions currently in development.

The goal is to issue proposed regulations by mid-year and finalize them by the end of the year to align with statutory timing requirements. At the same time, Treasury continues to pursue deregulation initiatives, including simplification of existing regimes.

Section 951A - The panel also examined changes to Section 951A, which significantly alter how income from controlled foreign corporations is allocated among U.S. shareholders. The new framework appears to favor a pro rata allocation approach.

However, questions remain about how to treat extraordinary transactions and whether more tailored allocation methods should be permitted. Treasury is considering different approaches, including potential mechanisms to better align income with ownership periods.

Section 898 - Changes to Section 898 eliminate the one-month deferral election for certain foreign corporations. Treasury has issued initial guidance through a notice and plans to release proposed regulations by mid-year, with final regulations expected by year-end.

These changes are particularly important for financial reporting and foreign tax credit timing.