

# BUSINESS IN 2025

## WEEKLY WEBINAR SERIES



# Your Host



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# TODAY'S AGENDA

**Kerry Langan (12 p.m.)**

- Welcome / Agenda

**Frank Mayer (12 – 12:10 p.m.)**

- Top 10 Tax Takeaways as Enacted in the One Big Beautiful Bill Act

**Erin Callahan (12:10 – 12:15 p.m.)**

- Employment Law Implications from the One Big Beautiful Bill Act

**Nicholas Jacobson and Colin Smith (12:15 – 12:30 p.m.)**

- Summer Interns and Minor Employees

**Kerry Langan (12:30 p.m.)**

- Questions

# Top 10 Tax Takeaways as Enacted in the One Big Beautiful Bill Act



**Frank C. Mayer**

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# Employment Law Implications from the One Big Beautiful Bill Act



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# Tips

- Deduction for tipped workers – up to \$25,000 for qualified tips earned (reduced by \$100 for each \$1,000 the tipped employee's gross income exceeds \$150,000 (\$300,000 joint filers).
  - Non-statutory employees who earn tips in the course of a trade or business may also seek the deduction. Limited to the extent income (including tips) exceeds the full sum of allowable deductions (excluding tip deduction).
- Qualified tips earned:
  - voluntarily paid by the customer, includes those received under a tip sharing arrangement (*automatic, mandatory service charges are not deductible*).
  - Earned in a traditional and customarily tipped industry. Treasury Department will publish a list of occupations that traditionally and customarily receive tips.

## Tips (Continued)

- W-2s and 1099s need to report tips and identify the employee's qualifying tip earning occupation and recipient's occupation for tipped contractors.
- Employers should be on the lookout for specific IRS guidance, including how to approximate a separate accounting of amounts designated as cash tips for 2025.
- Work with your Tax Attorney/Accountant on FICA tip credit, expanded to those in the beauty service industry, in addition to those who provide, deliver, or serve food/drinks for consumption.

# Overtime

- Deduction for overtime – up to \$12,500 (\$25,000 for a joint return) for qualified overtime compensation.
- Qualified overtime compensation is what is required to be paid under Section 7 of the FLSA in excess of the regular rate.
  - Regular rate of pay is \$15/hour and overtime is \$22.50/hour – \$7.50 may be deducted.
  - Does not apply to heightened state law requirements or negotiated CBAs.



## Overtime (Continued)

- W-2s need to report qualified overtime.
- Employers should be on the lookout for specific IRS guidance, including how to approximate an amount designated as qualified overtime compensation for 2025.
- Review your exempt and non-exempt classifications.

# Summer Interns and Minor Employees



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# Summer Interns

# Interns and the FLSA

- FLSA requires “for-profit” employers to pay employees for their work.
  - If an intern is found to actually be an employee under the statute, then he or she is entitled to both minimum wage and overtime.
- Unpaid internships for public sector and non-profit charitable organizations, where the intern volunteers without expectation of compensation, are generally permissible under the FLSA

# FLSA's “Primary Beneficiary Test” (1/2)

- To determine if an intern is considered an employee under the FLSA, courts use the “Primary Beneficiary Test” which looks at the economic reality of the intern-employer relationship to determine which party is the primary beneficiary of the relationship
  - Depends on the unique circumstances of each case

# FLSA's "Primary Beneficiary Test" (2/2)

- Courts apply the following seven factors, with no one factor being determinative
  - (1) The extent to which the intern and the employer clearly understand that there is no expectation of compensation. Any promise of compensation, express or implied, suggests that the intern is an employee—and vice versa
  - (2) The extent to which the internship provides training that would be similar to that which would be given in an educational environment, including the clinical and other hands-on training provided by educational institutions
  - (3) The extent to which the internship is tied to the intern's formal education program by integrated coursework or the receipt of academic credit
  - (4) The extent to which the internship accommodates the intern's academic commitments by corresponding to the academic calendar
  - (5) The extent to which the internship's duration is limited to the period in which the internship provides the intern with beneficial learning
  - (6) The extent to which the intern's work complements, rather than displaces, the work of paid employees while providing significant educational benefits to the intern
  - (7) The extent to which the intern and the employer understand that the internship is conducted without entitlement to a paid job at the conclusion of the internship

# Interns - NYS Minimum Wage Act and Wage Orders

- NYS Minimum Wage Act and Wages Orders apply to interns if they are in an employment relationship
- Stricter test than FLSA

# NYS Test (1/3)

- Intern is only exempt if the following eleven criteria are satisfied
  - (1) The training, even though it includes actual operation of the employer's facilities, is similar to training provided in an educational program
  - (2) The training is for the benefit of the intern
  - (3) The intern does not displace regular employees, and works under close supervision
  - (4) The activities of trainees or students do not provide an immediate advantage to the employer. On occasion, operations may actually be impeded



## NYS Test (2/3)

- (5) The trainees or students are not necessarily entitled to a job at the conclusion of the training period and are free to take jobs elsewhere in the same field
- (6) The trainees or students are notified, in writing, that they will not receive any wages and are not considered employees for minimum wage purposes
- (7) Any clinical training is performed under the supervision and direction of people who are knowledgeable and experienced in the activity
- (8) The trainees or students do not receive employee benefits

## NYS Test (3/3)

(9) The training is general and qualifies trainees or students to work in any similar business. It is not designed specifically for a job with the employer that offers the program

(10) The screening process for the internship program is not the same as for employment and does not appear to be for that purpose. The screening only uses criteria relevant for admission to an independent educational program.

(11) Advertisements, postings, or solicitations for the program clearly discuss education or training, rather than employment, although employers may indicate that qualified graduates may be considered for employment

# NYS Exceptions for Not-For-Profits

- Some interns at not-for-profits may fall within one of the following exceptions:
    - Volunteers
    - Students
    - Trainees and Learners
- \*all three require the organization to be organized and operated exclusively for charitable, educational, or religious purposes

# Employment of Minors

Summary of New York State Child Labor Law,  
Permitted Working Hours for Minors Under 18 Years of Age

Age of Minor Girls and Boys		Industry or Occupation	Maximum			Permitted Hours
			Daily Hours	Weekly Hours	Days per Week	
Attending School, When school is in session:	14 and 15	All occupations except farm work, newspaper carrier and street trades	3 hours on school days. 8 hours on other days.	18 <sup>1</sup>	6	7 AM to 7 PM
	16 and 17	All occupations except farm work, newspaper carrier and street trades.	4 hours on days preceding school days: Monday, Tuesday, Wednesday, Thursday <sup>2</sup> . 8 hours on: Friday, Saturday, Sunday and Holidays <sup>4</sup> .	28 <sup>4</sup>	6 <sup>4</sup>	6 AM to 10 PM <sup>3</sup>
Attending School, When school is not in session (vacation):	14 and 15	All occupations except farm work, newspaper carrier and street trades.	8 hours	40	6	7 AM to 9 PM June 21 to Labor Day
	16 and 17	All occupations except farm work, newspaper carrier and street trades	8 hours <sup>4</sup>	48 <sup>4</sup>	6 <sup>4</sup>	6 AM to Midnight <sup>4</sup>
Not Attending School:	16 and 17	All occupations except farm work, newspaper carrier and street trades	8 hours <sup>4</sup>	48 <sup>4</sup>	6 <sup>4</sup>	6 AM to Midnight <sup>4</sup>
Farm Work:	12 and 13	Hand harvest of berries, fruits and vegetables.	4 hours	-----	-----	June 21 to Labor Day, 7 AM to 7 PM. Day after Labor Day to June 20, 9 AM to 4 PM.
	14 to 18	Any farm work	-----	-----	-----	-----
Newspaper Carriers:	11 to 18	Delivers, or sells and delivers newspapers, shopping papers or periodicals to homes or business places.	4 hours on school days. 5 hours on other days.	-----	-----	5 AM to 7 PM or 30 minutes prior to sunset, whichever is later
Street Trades:	14 to 18	Self-employed work in public places selling newspapers or work as a bootblack	4 hours on school days. 5 hours on other days.	-----	-----	6 AM to 7 PM

<sup>1</sup> Students 14 and 15 enrolled in an approved work/study program may work 3 hours on a school day, 23 hours in any one-week when school is in session.

<sup>2</sup> Students 16 and 17 enrolled in an approved Cooperative Education Program may work up to 6 hours on a day preceding a school day other than a Sunday or Holiday when school is in session, as long as the hours are in conjunction with the Program.

<sup>3</sup> 6 AM to 10 PM or until midnight with written parental and educational authorities consent on day preceding a school day and until midnight on day preceding a non- school day with written parental consent.

<sup>4</sup> This provision does not apply to minors employed in resort hotels or restaurants in resort areas.

# NY Child Labor Laws

- Employers must post a schedule of work hours for minors under 18 in the establishment
- Minors are required to obtain employment certificates
- Penalties for Child Labor Laws Violations
  - First Violation: maximum \$1,000
  - Second Violation: maximum \$2,000
  - Third: maximum \$3,000

# NYS Prohibited Occupations for Minors

- Vary by age
- Under 16
  - Examples: factory work, dangerous farm jobs, painting or exterior cleaning of a building or structure, etc
- Under 18
  - Construction work, mining, logging, operating power-driven woodworking, metal-forming, metal-punching, metal-shearing, bakery and paper products machines, etc

# Driving

- Federal law prohibits employees under 17 from driving a motor vehicle on public roads as part of their job
- 17 year olds may drive if:
  - Limited to daylight hours
  - Has a license for the type of driving involved
  - Has successfully completed a state approved driver's ed course and has no moving violations
  - Vehicle is under 6,000 lbs
  - Vehicle is equipped with a seat belt for driver and passengers
  - The driving is only occasional and incidental to employment (no more than 1/3 of his or her workday and no more than 20% of his or her work time in a workweek)
- All minors prohibited from making time-sensitive deliveries (e.g. pizza deliveries)



# Food Service

- 14 and 15-Year-Olds
  - Cashiering, busing, cleaning
  - Preparing food and beverages, including operation of toasters, milk shake blenders, warming lamps, and coffee grinders
  - Limited cooking duties
    - Electric or gas grills with no open flame
    - Deep fryers ONLY IF equipped with device that automatically raises and lowers the baskets into the oil.
- 16+
  - No power-driven meat and poultry processing machines, commercial mixers and certain power-driven bakery machines

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Frank Mayer, [fmayer@bsk.com](mailto:fmayer@bsk.com)

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## Summer Interns and Minor Employees

Nick Jacobson, [njacobson@bsk.com](mailto:njacobson@bsk.com)

Colin Smith, [csmith@bsk.com](mailto:csmith@bsk.com)

### Sexual Harassment Prevention Training

To combat harassment in the workplace, every New York State employer must provide harassment prevention training for all employees annually.

For more information on Bond's online sexual harassment training [click here](#) or email [bondonline@bsk.com](mailto:bondonline@bsk.com)

# Thank You

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It is not to be considered as legal advice.  
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