

The OBBBA's Effect on the Renewable Energy Tax Credit Transfer Market

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In this article, Sklar argues that the enactment of the One Big Beautiful Bill Act resulted in significantly reduced 2025 federal tax estimates for certain large taxpayers, which he examines through the renewable energy tax credit transfer market.

The enactment of the One Big Beautiful Bill Act in July has resulted in significantly reduced 2025 federal tax estimates for certain large taxpayers. This is particularly evident in the renewable energy tax credit transfer market. This midyear tax cut is primarily a consequence of the OBBBA's allowance of immediate deductions effective in the 2025 tax year for section 174 research and experimentation expenditures, including a catch-up deduction for previously unamortized expenses. To a lesser extent it also results from the reinstatement of 100 percent bonus depreciation and the relaxing of section 163(j) interest expense limitations. Taxpayers most likely to be affected are those with large amounts of R&E expenses (such as pharmaceutical and technology companies) and those with substantial capital expenditures. The effect of these deductions will be particularly acute for taxpayers with multinational operations subject to the base erosion and antiabuse tax regime, in which deductions and credits work together to erode any cushion between regular tax liability and the minimum tax imposed by the BEAT.

The midyear reductions in projected tax credit capacity to levels meaningfully lower than projections modeled just months earlier have caused some corporate tax credit buyers to reduce the volume of previously contemplated purchases of 2025 tax credits. This has affected the market, causing downward pressure on pricing for 2025 tax credits. This, in turn, presents opportunities for active market participants without substantial R&E and capital expenditure deductions (such as retailers and financial firms) or for companies that have been waiting on the sidelines and have yet to purchase tax credits. The new law has not influenced advance purchases of 2026 tax credits because 2026 tax capacity is less affected by the OBBBA's changes.

I. OBBBA's Increased Deductions for Large Corporations in 2025

The OBBBA introduced three significant changes that are retroactively effective for all of 2025 and that can reduce taxable income to levels lower than initially modeled.

A. R&E Expenditures — Section 174A

The newly enacted section 174A allows a full current year deduction beginning in 2025 for domestic R&E expenses, reversing the provisions in section 174 enacted as part of the Tax Cuts and Jobs Act in 2017 requiring five-year amortization for specified R&E beginning in 2022. Further, the OBBBA lets taxpayers accelerate some remaining unamortized 2022-2024 R&E costs with a catch-up deduction in 2025 or alternatively spread them out over 2025 and 2026.

B. Bonus Depreciation — Section 168(k)

The OBBBA restored 100 percent bonus depreciation for qualified property placed in

service on or after January 20 (the day President Trump was inaugurated), reversing the phasedown schedule enacted under the TCJA. Under prior law, bonus depreciation was set to decline to 40 percent in 2025. But the OBBBA reinstated full expensing for property with a recovery period of 20 years or less, as well as for certain qualified improvements, computer software, and specified plants.

C. Interest Expense Limitation – Section 163(j)

Starting with the 2025 tax year, the OBBBA reverts section 163(j) to a more favorable and permanent EBITDA-based (earnings before interest, taxes, depreciation, and amortization) limitation. This modification reinstates the allowance of depreciation, amortization, and depletion as addbacks when calculating adjusted taxable income, effectively expanding the 30 percent cap on deductible business interest compared with the stricter EBIT-based (earnings before interest and taxes) calculation that has been in place since 2022.

Further amendments are scheduled for tax years beginning after December 31 (that is, starting in 2026). One taxpayer-friendly adjustment excludes subpart F income, net controlled foreign corporation tested income (formerly known as global intangible low-taxed income), related section 78 gross-ups, and similar income items from the ATI calculation, thus potentially enhancing interest deductibility for multinational corporations. Conversely, another 2026 change curtails a common planning strategy by treating any interest expense that taxpayers elect to capitalize into asset basis (other than those amounts mandatorily capitalized under sections 263(g) or 263A(f)) as business interest still subject to the limitation, thereby closing a deferral loophole.

Overall, while the 2026 changes represent a mixed bag by simultaneously expanding deductible interest through adjusted ATI definitions and tightening antiavoidance provisions, the net effect for capital-intensive businesses in 2025 remains clearly favorable, granting additional capacity for interest deductions.

II. Effect of OBBBA Changes on 2025 Tax Liability

A. Section 174 Changes Will Have the Largest Effect

Among the three key OBBBA tax changes detailed below (section 174 R&E expense deductions, section 168(k) bonus depreciation, and section 163(j) interest expense limitation), the changes to section 174 R&E expense deductions are projected to have the largest budget effect in 2025 on a cumulative basis. (See Table 1.)

Table 1. Projected Revenue Effect on 2025 Tax Liabilities

Provision	Projected 2025 Revenue Effect
Section 174 R&E expense deductions	\$53.8 billion
Section 168(k) bonus depreciation	\$33.5 billion
Section 163(j) interest expense limitation (EBITDA rule)	\$8.3 billion
<i>Source:</i> Joint Committee on Taxation, “Estimated Revenue Effects Relative to the Current Policy Baseline of the Tax Provisions in ‘Title VII — Finance’ of the Substitute Legislation as Passed by the Senate to Provide for Reconciliation of the Fiscal Year 2025 Budget,” JCX-34-25 (July 1, 2025).	

The section 174 changes will also have the largest effect on tax liabilities at the individual company level, particularly affecting industries characterized by high R&E expenditures, such as technology, pharmaceuticals, biotechnology, and advanced manufacturing. This shift disproportionately reduces tax liabilities and effective tax rates for these industries.

The double benefit in 2025 of currently expensing R&E and the catch-up deduction for prior years has an outsize effect on 2025 R&E deductions. As Table 2 shows, the cumulative effect of these deductions means a company that ordinarily incurs \$100 annually of R&E expenses will have incremental deductions (versus the pre-OBBBA base case) of 2.4 times its annual R&E expense, or \$240 (assuming level R&E expenses for every year from 2022 onward).

Table 2. Cumulative Incremental Deductions in 2025 From OBBBA Section 174A Changes, Expressed as a Percentage of Annual R&E Expenses — Assuming Level Spending and Midyear Convention Baseline

Year of Spend	Unamortized as of January 1, 2025	Old Law 2025 Amortization	Incremental 2025 Deduction	2025 Increase Factor
2022	50%	20%	30%	0.30X
2023	70%	20%	50%	0.50X
2024	90%	20%	70%	0.70X
Catch-Up Subtotal	—	—	—	1.50X
Deduction for 2025 R&E	—	10%	90%	0.90X
Total 2025 Increment	—	—	—	2.40X

It is common for profitable companies with heavy R&E expenses to spend 10 percent or more of their annual revenues on R&E expenses. For a business with a 50 percent margin that would translate to 20 percent of pretax income. If these companies took the entire section 174A catch-up deduction in 2025 (in addition to a current deduction for 2025) the incremental deductions in 2025 of 2.4 times their annual R&E expenses would reduce taxable income for that year by (2.4 * 20 percent) or close to 50 percent versus the pre-OBBBA base case.

B. Incremental Effect of Changes to Sections 168(k) and 163(j)

In contrast to the more concentrated effect of the section 174 R&E expense deduction changes, the consequences stemming from modifications to section 168(k) bonus depreciation and section 163(j) interest expense limitations are broadly distributed across industries. Thus, those adjustments generally have less dramatic stand-alone effects on the 2025 tax liabilities of individual companies.

However, for companies already significantly benefiting from the section 174 R&E expense deduction changes, the additional effects of bonus depreciation and interest expense limitations can further amplify their reductions in taxable income, creating an even more pronounced decrease in their overall tax liabilities.

III. The Effect on 2025 Tax Credit Purchases

A. General Limitations on General Business Credits

For most large corporate taxpayers, general business credits (including investment tax credits, production tax credits, work opportunity tax credits, and low-income housing tax credits) can offset up to 75 percent of their regular tax liability after applying other allowable credits (section 38(c)). For example, a corporate taxpayer with a regular tax liability of \$100 million can offset up to \$75 million with general business credits. Any unused credits are eligible for a one-year carryback and a 20-year carryforward.

B. Additional Limitations Under the BEAT

Taxpayers subject to BEAT face additional constraints. The BEAT functions as an alternative minimum tax, payable only if it exceeds the taxpayer's regular tax liability. BEAT is calculated at 10 percent of modified taxable income, which is essentially regular taxable income with base erosion deductions (deductible payments to offshore affiliates) added back.¹

BEAT liability is not reduced by foreign tax credits and, notably, only 20 percent of general business credits effectively reduce BEAT liability. Only 20 cents of every dollar reduce the BEAT

¹ Many taxpayers escape the effect of the BEAT rules by satisfying a safe harbor. The BEAT safe harbor rule provides that taxpayers whose base erosion payments are less than 3 percent (2 percent for banks and securities dealers) of their total deductions need not run the alternative BEAT computation.

calculation, leaving 80 cents of credit value unused against BEAT. As a result, each dollar of general business credit applied reduces the cushion (the gap between regular tax and BEAT) by 80 cents.

Taxpayers subject to BEAT often find that the BEAT calculation, rather than the 75 percent cap under section 38(c), becomes the more restrictive constraint.²

C. The Advent of the Tax Credit Transfer Market

Beginning in August 2023 the Inflation Reduction Act of 2022 ushered in a transformative change to the tax credit landscape by enabling companies to purchase certain general business credits, in particular, designated ITCs and production tax credits from clean energy projects, via the new transferability mechanism established under section 6418. In addition to making these credits transferable, the IRA also extended their carryback period to three years and carryforward period to 22 years.

For the first time, corporate taxpayers could acquire tax credits beyond those generated organically through their own operations, allowing them to monetize unused tax capacity by purchasing tax credits in the open market, either directly from clean energy developers or from tax equity partnerships looking to lighten the load of tax credits passed through to the tax equity investors.³

But purchasers in this new market must be confident that the tax credits acquired for a given tax year (for example, 2025) can be applied against tax liabilities in that same year. While section 6418 does allow for credits to be carried back or

forward, these options offer little practical flexibility for most buyers because of the timing delays associated with monetization. A carryback credit may only be claimed by filing an amended return after the original return for the credit year has been filed, typically by October of the following year. Likewise, carrying a credit forward results in a deferral of at least one full year before the benefit can be realized.

This timing mismatch has a meaningful cost. Credits in the transfer market typically trade at a discount of less than 10 cents per \$1 of face value (that is, at prices above 90 cents), so the time value of money at current interest rates makes those delays costly. It is thus essential for purchasers to use the credits in the same year they are acquired.⁴

To achieve this optimization, corporate buyers must project their current-year tax liability and model all relevant limitations on tax credit usage. Many companies begin this process early in the year, building in conservative assumptions and updating their forecasts as new financial data becomes available. This approach enables purchasers to commit to tax credit acquisition earlier in the year, often locking in pricing and terms before market supply tightens and pricing increases — as is typical later in the year.

Early commitment also provides cash flow benefits. Credits acquired under contract can be applied against estimated tax payments due in earlier quarters, often before payment for the tax credits is even required. This dual advantage — price certainty and early tax benefit realization — makes forward planning a critical part of an effective tax credit purchasing strategy under the IRA's new transferability regime.

That said, early commitments carry risk. If a taxpayer's projected tax liability turns out to be overstated, unused tax credits may result in inefficiencies or additional structuring. To manage this risk many buyers stagger their purchasing activity, making initial purchases early in the year but reserving capacity to acquire

²For example: A taxpayer with income of \$1,000, owing \$210 (at 21 percent) of regular tax could absorb \$157 of general business credits (75 percent of \$210), which would effectively impose a floor of \$53 in tax. If that same taxpayer had \$400 in base erosion payments, resulting in BEAT taxable income of \$1,400 after the addback and a tentative BEAT tax of \$140 (at 10 percent), the BEAT constraint would limit general business credits to just \$108.75, since anything higher would completely deplete the \$87 BEAT cushion (\$140 - \$53) and result in incremental BEAT tax.

³While section 6418 marks the first time most corporations can directly purchase tax credits in the open market, before the IRA, certain corporations could gain access to ITCs and production tax credits by investing in tax equity partnerships. These structures, however, were highly complex and largely limited to financial institutions and the most sophisticated corporate taxpayers. The transferability regime introduced by the IRA significantly broadened access by simplifying the acquisition process and removing structural barriers that had historically limited participation.

⁴Although carrying a purchased credit back or forward results in a time-value-of-money detriment, the buyer may still realize an immediate benefit for generally accepted accounting principles by recognizing a deferred tax asset. This recognition can enhance reported earnings or reduce the ETR in the acquisition period. As a result, the strategy may offer meaningful financial reporting advantages despite the economic cost of delayed cash monetization.

additional credits later in the year (or even early the following year) when tax liability projections are more certain. This phased approach enables buyers to scale their tax credit purchases up or down as actual results emerge.

D. The OBBBA's Passage

The OBBBA's enactment introduced sweeping changes to key corporate tax provisions, most notably, the full expensing of section 174 R&E expenditures. These changes have prompted significant downward revisions to projected tax liabilities for many large corporations.

Several of these corporations had already contracted to acquire tax credits earlier in the year through the transfer market and were in negotiations for additional purchases in the second half. Now finding themselves with reduced tax liabilities thanks to the OBBBA tax cut, some are retreating from further acquisitions. At the same time, potential first-time buyers, many of whom were poised to enter the market, are opting to remain on the sidelines because of the shifting landscape and uncertainty around their projected tax positions.

As a result, demand for 2025 tax credits has declined at a time when it would typically be on the rise. Market participants report that tax credit intermediaries and large banks seeking to offload tax credits from tax equity partnerships are waiting longer to receive acceptable offers for transfers. This trend has accelerated over the past month, as corporate tax departments have had time to model the effects of the OBBBA and reassess their tax credit capacities, especially those constrained by the BEAT regime for whom the new deductions are particularly significant.

Despite these headwinds, the tax credit transfer market remains relatively stable. However, 2025 tax credits are waiting longer for acceptable offers, and some buyers are shifting their focus to 2026 tax credits earlier than in prior years.

This modest dislocation has created new opportunities for corporations whose 2025 tax positions remain largely unaffected. It has also opened the door for first-time buyers that have held off until now and still have ample capacity to absorb general business credits at favorable prices. ■