Telecom Tax Update
Top Questions Right Now

August 27, 2026

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Meet the Presenters

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Goals of Today's Presentation

1. Review hot-button tax issues currently affecting on the telecom industry
2. Recognize key telecom tax risk areas
3. Describe considerations that may help inform business practices
4. Address selected questions related to the above or other tax items that may be affecting your organization today

Telecom Tax Update
Bonus Depreciation

- *Tax Cuts and Jobs Act* extended bonus depreciation through 2026 for qualified property placed in service
  - 20% for 2026
- The One Big Beautiful Bill Act (OB3) provides 100% bonus depreciation for certain qualified property, subject to applicable requirements. The provision is effective for property acquired and placed into service after January 19, 2025.
  - Existing contracts
  - Inventory/materials & supplies
  - Work orders that were not closed

Business Tax Accounts

IRS Correspondence

- In December 2024, the IRS made business tax accounts available to C corporations. S corporations also have access
- In April 2026, the IRS expanded access to partnerships, Indian tribal governments, tax-exempt organizations, and government bodies

- According to the IRS, a **business tax account** provides access to online tools for certain federal tax responsibilities, including:
  - View tax balances, make payments, and see payment history;
  - Download select digital notices;
  - View eligible transcripts, such as payroll and income;
  - Request a tax compliance check; and
  - See the business name and address on file with the IRS.

Charitable Contribution Deduction

Is it Charitable or is it Advertising

New limitations on charitable contribution deductions for both corporations and individuals who itemize deductions are effective for tax years beginning after Dec. 31, 2025.

- Corporations can deduct aggregate charitable contributions only to the extent they exceed 1% of taxable income (floor) and are not more than (the preexisting) 10% of taxable income (ceiling).
  - Amounts below the 1% floor may be disallowed, depending on the applicable facts and rules.
  - Contributions greater than the 10% limit are carried forward for up to five succeeding tax years and taken into account on a first-in, first-out basis.
  - The new floor may limit deductions for certain charitable contributions made by C corporations beginning after Dec. 31, 2025, highlighting the need to consider whether a payment made by a corporation to a Sec. 501(c)(3) organization is a charitable contribution under Sec. 170 or an ordinary and necessary business expense under Sec. 162.
- For individuals who itemize deductions, charitable deductions are allowed only to the extent contributions exceed 0.5% of their contribution base — generally, adjusted gross income (AGI) — with disallowed amounts potentially carried forward, subject to existing limitations.
  - Charitable contributions disallowed by the 0.5% floor could be available as a carryover to up to five subsequent tax years, but only if the taxpayer's charitable contributions are first limited by one or more of the AGI percentage limitations (generally, 60% for cash donations to public charities and 30% for donations to certain private foundations), thereby generating a current-year carryover.

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Overtime Deduction

The One Big Beautiful Bill Act established a deduction under **IRC §225** for qualified overtime pay. The deduction is available for tax years 2025 through 2028.

- Qualified overtime compensation is defined as the premium portion of overtime pay required under the Fair Labor Standards Act (FLSA). Generally, this is the "half" portion of a "time-and-a-half" rate. **Overtime not required by FLSA is not eligible for the deduction.**
  - Qualified overtime is determined by number of hours over 40 each workweek (workweek is a period of 7 consecutive 24-hour periods)
  - Under FLSA, an employee's regular rate includes all remuneration for employment paid to, or on behalf of the employee. The "regular rate" includes all renumeration for employment whether determined on a piece-rate, salary, commission, or other basis.
    - Some limited exceptions, such as discretionary bonus awards, (both payment is made an amount is sole discretion of employer)
- Same principles that govern when a payment is treated as wages for purposes of income tax withholding apply to determine when qualified overtime compensation is paid by the employer to the employee.
- The deduction is capped at $12,500 per individual tax return ($25,000 for a joint return). The amount is also subject to a phaseout for taxpayers with modified adjusted gross income over $150,000 ($300,000 for joint filers).
- While the IRS provided relief from this requirement for the 2025 tax year, for tax years 2026 through 2028, employers must report qualified overtime compensation on Form W-2, Box 12, using code TT.
- If an employee believes their employer understated or completely omitted qualified overtime pay from Form W-2, the employee must request a Form W-2c, *Corrected Wage and Tax Statement*, from the employer. If an employer is unwilling or unable to provide a corrected Form W-2c, the employee may be limited in using the omitted or understated amount to determine their deduction.

Government Grants
Background – quick review

- Tax Cuts and Jobs Act (TCJA) changed the treatment of grants from being nontaxable contributions to capital to taxable income upon receipt or accrual:
  - If the grant is recorded as deferred revenue for book purposes, there is a possibility the income recognition for tax purposes could be deferred for up to one year. IRC § 451(c) may provide timing relief only if the grant/payment qualifies as an "advance payment" under IRC § 451(c).
  - Grants that are recorded in any other method for book purposes (i.e., reduction of asset cost) will need to be recognized fully in the year of accrual or receipt.

- Timing of tax depreciation deductions – take depreciation once asset is placed in service (ready & available for intended use).

- Tax Considerations:
  - Timing of recognizing grant income and when the plant is ready and available for intended use. Less of a timing issue now that 100% bonus depreciation is back.

Government Grants
State Conformity, Selected Examples

Georgia – For taxable years beginning on or after January 1, 2025 and prior to January 1, 2029, a corporation can subtract from taxable income any broadband investment grant awarded under BEAD or ARPA.

Iowa – Iowa Code Section 422.7 & 422.35 allows an exemption for federal taxable grants with the following exemption:

- Subtract, to the extent included, the amount of federal, state, or local grant provided to a communications service provider, if the grant is used to install broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds.

Missouri – allows an exemption for federal taxable grants with the following exemption:

- Missouri exempts 100% of federal grant moneys received for the purpose of providing or expanding access to broadband internet to areas in the state deemed to be lacking such access. Effective 8/28/2024 this applies for all tax years beginning on or after January 1, 2022.
- The state exemption cannot create a state net operating loss, meaning the taxpayer will receive the full state benefit if the taxpayer has positive taxable income in excess of the grant income.

Texas – allows an exclusion from Franchise Tax income for certain broadband expansion grants, including BEAD grants.

Wisconsin – allows an exemption for specific federal taxable grants received from the coronavirus relief fund authorized under 42 USC 801 (e.g. certain grants from ARPA funds, Capital Projects Funds, etc.).

163J Business Interest Limitation
Summary

- 2018 – 2021 - Beginning with the Tax Cuts and Jobs Act, certain taxpayers were subject to a limitation on deductible business interest expense, generally 30% of adjusted taxable income.
    - Adjusted taxable income
        - +/- Items of income, gain, deduction or loss not properly allocable to trade/business
        - + Business interest expense
        - - Business interest income
        - + Net operating loss
        - + Pass-through entity deduction (Schedule K-1)
        - + Depreciation, Depletion, and Amortization expense

- 2019-2020 – CARES act changed the limitation to 50% of adjusted taxable income (didn’t apply to partnerships, and could elect the 30% limit)

- 2022 – 2024 – Back to 30% of adjusted taxable income and no longer could use Depreciation, Depletion and Amortization as an addback to get to adjusted taxable income

163J Business Interest Limitation
New Rules under OBBBA

- For tax years 2025 and subsequent
  - Back to:
    - Adjusted taxable income
      - +/- Items of income, gain, deduction or loss not properly allocable to trade/business
      - + Business interest expense
      - - Business interest income
      - + Net operating loss
      - + Pass-through entity deduction (Schedule K-1)
      - + Depreciation, Depletion, and Amortization expense

  - Note: This only applies to entities with average gross receipts in the prior 3 tax years exceeding applicable amounts

    - For example, for 2025 tax year, the prior 3 tax years needed average gross receipts of $31 million or more for this limitation to apply

  - The disallowed interest expense is carried forward indefinitely.

Research & Development Expenses
Changes Introduced by the OBBBA

Common examples of R&D include developing next-gen hardware (cell towers, routers, antennas), customizing operating software, and testing and prototyping.

OLD Rules:

Tax Years 2022-2024 | TCJA (Pre-OBBBA)

- Capitalize and amortize over 5 years
  - 10% write-off in Year 1
  - 20% in Years 2-5
  - 10% in Year 6
- Reduced deduction in Year 1 (year of expenditure) meant increased taxable income
- Resulted in cash flow concerns (paying tax on money already spent)
- Discouraged innovation
- Foreign R&D Expenditures (research conducted outside the U.S., Puerto Rico, or U.S. possessions): Amortize over 15 years

NEW Rules:

Tax Years Beginning After Dec. 31, 2024 (Post-OBBBA)

- Immediate expensing was restored for domestic R&D
- Expensing is the default; option to continue capitalizing and amortizing over 5 years remains
- Regarding unamortized R&D costs from prior years: Taxpayers may elect to deduct the remaining costs in 2025 or ratably between 2025 and 2026
- Eligible small businesses may be able to seek retroactive relief, subject to applicable requirements and statutes of limitation.

- Note: Foreign R&D treatment generally remains unchanged – Amortize over 15 years

Entering New States
State and Local Tax Considerations

- **Nexus/Registration:**
  - Network-related physical presence
  - Personnel or third-party service providers
  - Economic nexus (sales thresholds)
- **Product/Charge Mapping & Bundling:** Classifying revenue streams separately and by state. Taxability of communication services varies greatly by state.
- **Other Taxes:**
  - Excise tax: Telecom, Communications, or Utility, and which services they apply to
  - Gross receipts tax: Truly gross receipts, or are there exclusions? (interstate, international, wholesale, etc.)
  - Franchise tax: Special apportionment provisions for utility or telecom companies?
- **Surcharges (911/E911, 988, Universal Service, etc.):** Who is responsible and do charges need to be separately stated on invoices?
- **Revenue Sourcing Methods:** Need to track common data, including origination, termination, service address, billing address, primary use location, etc.

Year-End Planning
Questions to Consider

- **Timing of capital expenditures – Should we make any significant fixed asset purchases before year end?**
  - Consider whether eligible assets may qualify for 100% bonus depreciation, which could help reduce tax liabilities.
  - Place assets in service in order to offset the taxes resulting from grant receipts
- **Treatment of R&D expenses – To capitalize or not to capitalize?**
  - Smooth out earnings
  - Manage NOL limitations
  - Evaluate whether deductions may be more beneficial in future years, depending on the taxpayer's facts and circumstances.
- **Estimated taxes for new states**
  - Not all states provide exemptions for initial year returns
- **Taxability law changes**
  - Sales taxes, Communications taxes, 911/E911 fees, Universal Service surcharges
  - Are the proper mechanisms in place to track any new data points that may be required next year?

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