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Client Alert

Tax

July 11, 2025

Tax Reform 2025: What the OBBBA Means for Startups & Venture Capital + QSBS in New Jersey

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On July 4, 2025, the One Big Beautiful Bill Act (OBBBA) was enacted into law. The OBBBA extends and expands numerous tax provisions from the Tax Cuts and Jobs Act of 2017 (TCJA), repeals or scales back several provisions from the Inflation Reduction Act of 2022, and introduces a number of new provisions. This alert provides a summary of some key tax provisions included in the OBBBA that impact emerging companies, startup investors, and R&D-intensive businesses. This alert also provides an update on New Jersey's enactment of qualified small business stock (QSBS) benefits.

Expansion of QSBS Eligibility and Income Exclusion (Code Section 1202)

The OBBBA makes three key changes to the QSBS provisions of the Internal Revenue Code (Code). **Importantly, these changes only apply to QSBS treated for tax purposes as issued after July 4, 2025.**

1. Reduced Holding Period To Access QSBS Benefits

Prior to the OBBBA, stockholders could only claim QSBS benefits if the stock had been held for more than five years. The OBBBA introduces a tiered benefit structure, allowing holders to access 50 percent of the eligible gain exclusion after three years, 75 percent after four years, and 100 percent after five years. Where the 50 percent or 75 percent exclusion applies, the remainder of the QSBS is generally subject to a federal income tax rate of 28 percent (before taking into account any applicable net investment income tax).

2. Increased QSBS Gain Exclusion Cap

Prior to the OBBBA, the amount of gain eligible for the QSBS exclusion was generally the greater of $10 million or 10 times the stockholder's basis in the stock (typically, the amount the stockholder paid for it). The OBBBA increases the $10 million gain exclusion cap to $15 million, enhancing the potential tax benefit for eligible stockholders. In addition, the $15 million cap will be indexed for inflation for tax years beginning in 2027.

3. Increased Limit on Size of Qualified Small Business

Prior to the OBBBA, stock could only qualify as QSBS if the corporate issuer's aggregate gross assets did not exceed $50 million at any time before or immediately after the issuance of the relevant stock. The OBBBA increases this gross asset threshold to $75 million. The $75 million threshold will be indexed for inflation for tax years beginning in 2027.

The other requirements to claim QSBS benefits remain unchanged by the OBBBA. For example, the stock must be issued by a domestic C corporation; the holder must acquire the stock at original issuance (i.e., directly from the corporation) or by gift, bequest, or certain transfers from a partnership to a partner; and the corporation must be engaged in a qualified trade or business. In addition, the OBBBA does not impact strategies to potentially multiply QSBS benefits, which generally apply on a per-shareholder basis (e.g., the separate application of QSBS benefits to individual trusts in appropriate circumstances). *For more details regarding QSBS requirements and tax planning strategies for startups and growth companies, see our Alerts here and here.*

Takeaway: These changes meaningfully increase the opportunity of, and value to, founders and early investors of QSBS, particularly for high-growth companies. In some cases, these increased QSBS benefits may affect the choice of entity for new ventures. Current holders and issuers of QSBS will have to closely monitor new issuances of QSBS and dispositions and other exchanges of existing and new QSBS to ensure maximum benefit under the new and prior rules. Many of the existing strategies for maximizing the benefits of monetizing QSBS may continue to be available, but careful consideration may be needed to manage situations where a company has issued, or a stockholder holds, QSBS subject to both the new and prior QSBS regimes.

Research and Investment Incentives (Code Sections 174A, 168(k) and 168(n))

The OBBBA includes several provisions encouraging domestic research and experimentation, as well as capital investment:

- Under the OBBBA, domestic research or experimental expenditures are deductible in the year incurred. For domestic expenditures, this generally restores the law to the pre-TCJA rules. The provision is generally retroactive to expenses incurred on or after January 1, 2025, but also provides several ways for taxpayers to deduct domestic research and experimental expenditures previously capitalized from 2022 through 2024. Foreign research expenses generally remain subject to 15-year amortization.
- The OBBBA permanently reinstates elective expensing (i.e., 100 percent bonus depreciation) for eligible business property acquired on or after January 20, 2025. Full expensing had been added by the TCJA but was previously subject to a phasedown beginning in 2023 and anticipated expiration after 2026.
- The OBBBA introduces a new special depreciation deduction for nonresidential real property used in domestic production or manufacturing activities. To qualify, construction, reconstruction, or erection of the property must begin on or after January 20, 2025, and before 2029, and the property must be placed in service before 2031, subject to certain exceptions.

Takeaway: Accelerated deductions for research and experimentation, qualifying business property and qualified production property will decrease taxable income and increase cash available for investment by eligible businesses. In addition, for emerging companies in research-intensive businesses, the ability to deduct qualifying investments, rather than capitalizing them into tax basis, may increase the likelihood of satisfying the gross asset threshold under the QSBS rules. In some cases, there may even be opportunities to reassess whether the gross asset threshold has been exceeded in prior years.

NJ Enacts QSBS Regime

On June 30, 2025, New Jersey enacted legislation that incorporates by reference the federal QSBS rules. As a result, income exempt from federal tax under the QSBS provisions will generally also be exempt from New Jersey state gross income tax. This bill applies to net gains or income realized from a disposition of QSBS in taxable years beginning on or after January 1, 2026.

Takeaway: With New Jersey allowing QSBS gain exclusion for state income tax purposes, only four states (Alabama, California, Mississippi, and Pennsylvania) currently provide for no QSBS benefits.

This Alert provides only a basic overview of what are complex and nuanced tax provisions. To learn more about the OBBBA and its implications for you or your business, please contact one of the Lowenstein Sandler attorneys listed.

Contacts

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