

## State Responses to Conformity Issues Under OBBBA

by Bruce P. Ely and James E. Long Jr.

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In this installment of From the SALT Minds, Ely and Long examine state responses to the One Big Beautiful Bill Act and the conformity challenges that have arisen under the law.

The authors were invited by the Alabama Department of Revenue to comment on draft versions of its executive summary of OBBBA/Alabama income tax code conformity. All views expressed in this column are the authors' own.

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On July 4, 2025, President Trump signed into law the massive One Big Beautiful Bill Act (P.L. 119-21), which made permanent many provisions of the landmark Tax Cuts and Jobs Act of 2017. The OBBBA includes several new tax breaks for individuals, such as deductions for qualified tip income and qualifying overtime pay and an increase to the state and local tax deduction cap. For the business community, the OBBBA returned to pre-TCJA treatment of domestic research and

experimental expenses, permanently restored 100 percent "bonus" depreciation, and created a provision that allows an immediate deduction of the entire cost of constructing a qualifying manufacturing facility in the United States, but within relatively narrow time limits.<sup>1</sup>

Every state that levies a net income tax has been studying the impact of the OBBBA on their income tax codes and revenues for months now. Several have publicly issued reports on that impact,<sup>2</sup> and a number of state legislatures — especially those with income tax codes that automatically incorporated many, if not most, OBBBA tax changes — have convened special sessions to determine how to respond (see map showing the different methods states use to conform to the IRC). In almost every case, state legislatures have chosen to decouple from one or more of the pro-taxpayer — but relatively "expensive" — provisions, although their choices vary. This installment of our column will not attempt to summarize the decoupling legislation (or lack thereof) applicable to each state but will focus on the more common examples and some of the quirks.

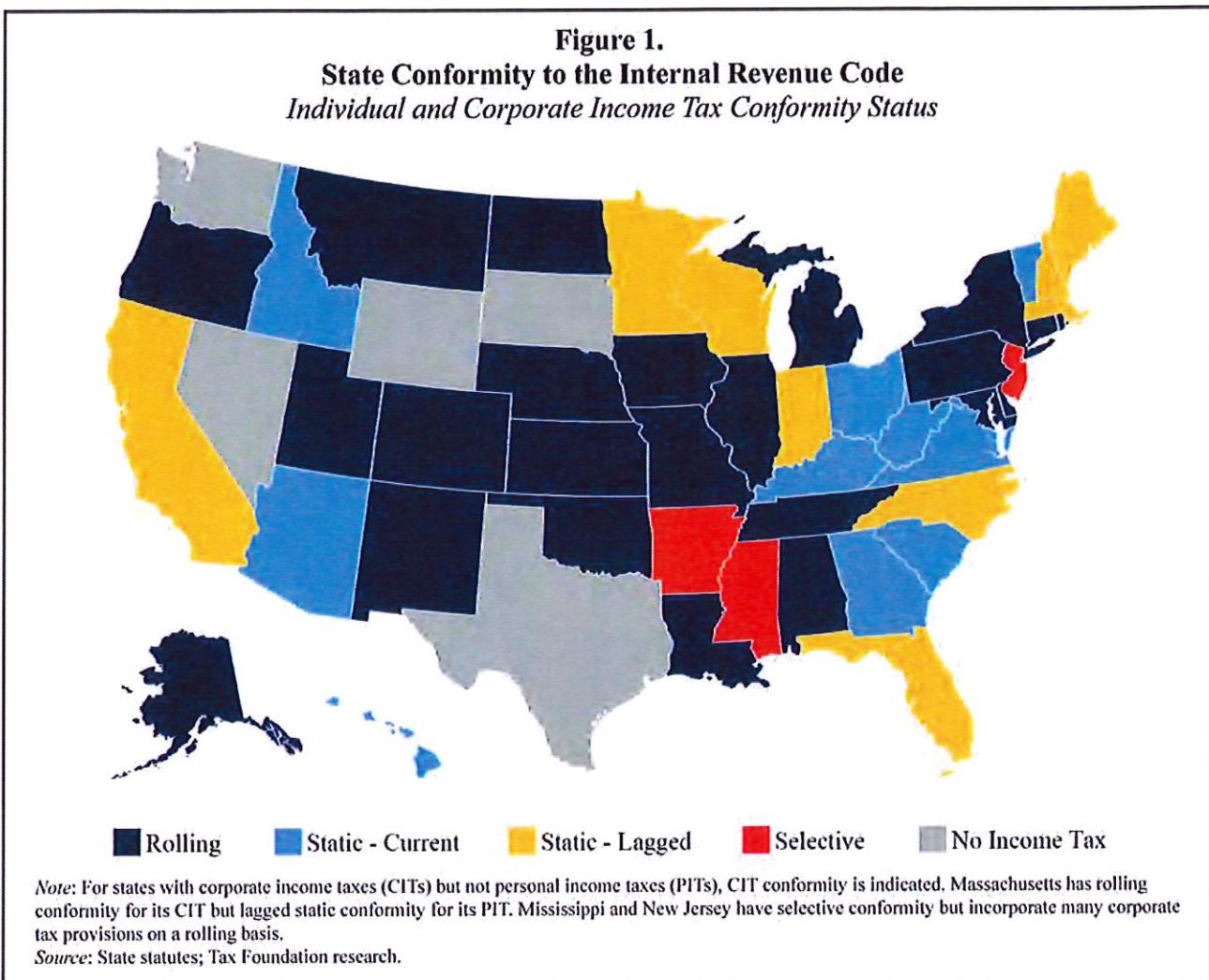
For example, Colorado, Maryland, Michigan, Rhode Island, Virginia, and the District of Columbia have enacted laws that decouple from selected OBBBA amendments, either in the current tax year or the current and following tax year.<sup>3</sup> Conversely, Rhode Island decoupled from the entirety of the OBBBA, applicable to tax years beginning on or before January 1, 2025.<sup>4</sup>

<sup>1</sup>See IRC section 168(n).

<sup>2</sup>See, e.g., Emily Hollingsworth, "Nebraska Faces \$103 Million Revenue Loss from OBBBA Conformity," *Tax Notes State*, Sept. 4, 2025, p. 969.

<sup>3</sup>See, e.g., Kennedy Wahrmund, "D.C. Bill Decoupling From Federal Tax Provisions Becomes Law," *Tax Notes State*, Dec. 8, 2025, p. 739.

<sup>4</sup>R.I. Gen. Laws section 44-11-11(a)(1).



On the other hand, Michigan H.B. 4961 selectively decoupled the state tax code from IRC sections 163(j), 168(n), 174, 174A, and 179, but granted taxpayers an election to conform to the IRC as in effect January 1, 2025 (in effect decoupling entirely from the OBBBA) or to use rolling conformity but with the above exceptions.

On November 12, 2025, Pennsylvania enacted legislation decoupling from several key OBBBA provisions, including rolling the section 163(j) business interest limitations back to the version in effect as of December 31, 2024.<sup>5</sup> Despite complaints from the business community, Delaware enacted legislation a week after

Pennsylvania's, decoupling from several OBBBA provisions (including bonus depreciation for "qualified production property") that would otherwise apply because of its status as a rolling conformity state and the projected \$400 million budget shortfall if there were OBBBA conformity.<sup>6</sup>

On December 12, 2025, Illinois enacted legislation that was a mixed bag. Consistent with the policy of several other states, S.B. 1911 decouples Illinois from IRC section 168(n), while

<sup>5</sup> H.R. 416 (Pa. 2025).

<sup>6</sup> Delaware House Democrats release, "House Administration Committee Advances Legislation to Address Budget Shortfall, Extend NCC Property Tax Deadline" (Nov. 7, 2025). The authors caution readers of these fiscal notes or revenue (loss) reports, however. Several appear to count changes to the bonus depreciation, additional first year depreciation, and R&E expense amortization rules not as a mere timing difference but as a permanent hit to the state's budget.

repealing the January 1, 2026, sunset date for that state's elective passthrough entity tax.<sup>7</sup> Because Illinois is a rolling conformity state and the act did not decouple from other OBBBA changes, Illinois automatically adopted the net controlled foreign corporation tested income regime but also allows immediate expensing of domestic R&E expenditures and loosens the IRC section 163(j) business interest limitations.

Two unusual decoupling/conformity laws are found in Maine and Maryland. On June 17, 2025, the Maine Legislature granted the governor the authority to temporarily conform with the OBBBA's changes but allowed the Legislature to step in and enact either conforming or decoupling legislation. Gov. Janet Mills (D) notified the state tax assessor that she will not direct the tax agency to conform with several of the changes without action by the Legislature, including the deductions for tips and overtime pay and the increase in the standard deduction.<sup>8</sup>

On the other hand, Maryland law directs the comptroller, within 60 days of the enactment date of an amendment to the IRC, to determine the fiscal impact of the change on taxpayers and state revenue. If the comptroller determines that the impact on state revenue will be \$5 million or more in the negative, then in tax years beginning during the calendar year in which the IRC amendment is enacted (in this case, 2025), the amendment will not be effective for that tax year. As a result, Maryland has temporarily decoupled from IRC sections 174/174A (R&E expenditures), 168(n) (described above), and 163(j) (described above), but only for 2025. It will be up to the Maryland General Assembly to vote to decouple from selected provisions of the OBBBA for 2026 and beyond.

Several states with fixed-date conformity statutes, including California and Michigan, recently updated their references to the IRC, but the new reference date predates the July 4, 2025, enactment of the OBBBA, effectively causing the state to decouple from (that is, to not conform with) the OBBBA provisions, although that's not

entirely clear. In late 2024 or early 2025, several other state legislatures with fixed-date conformity statutes effectively voted to decouple, even before the OBBBA was enacted, including Arizona, Georgia, Hawaii, Idaho, Kentucky, South Carolina, South Dakota, and West Virginia. As this installment was going to press, only two state legislature were in session and contemplating OBBBA-related proposals — Indiana and Virginia.<sup>9</sup>

The Trump Administration, led by a frustrated Treasury Secretary Scott Bessent, is urging the states either to conform with or not decouple from key OBBBA changes, particularly the popular deductions for qualified overtime pay, tip income, and auto loan interest.<sup>10</sup> Given the sheer volume of changes in the OBBBA, it's not surprising that states (and taxpayers) needed several months to digest these changes and to understand the impact of the federal-level income tax changes on their state levy — as well as how the reductions in the SNAP and Medicaid programs will affect their budgets.

This can be particularly difficult when a state has different methods of conforming to these changes, which may differ depending on the type of income tax. For example, Alabama essentially uses all three methods of conformity — rolling, static, and selective — across its corporate, financial institution, and individual income tax regimes. On November 4, 2025, the Alabama Department of Revenue issued a thoughtful and detailed 60-page analysis of the OBBBA impact on corporate income, individual income, and financial institution excise taxes, ironically called the "Executive Summary."<sup>11</sup>

Below are a few of the noteworthy conclusions reached in the summary.

Both individual and corporate Alabama income and financial institution excise taxpayers are entitled to claim the OBBBA's changes to "bonus" depreciation and additional first year depreciation, and because of either rolling or

<sup>7</sup> Hollingsworth, "Pritzker Signs Bill to Decouple Illinois From OBBBA Deduction," *Tax Notes State*, Dec. 22, 2025, p. 892.

<sup>8</sup> See Billy Hamilton, "Maine's Governor Stiff-Arms the OBBBA — For Now," *Tax Notes State*, Oct. 27, 2025, p. 227.

<sup>9</sup> Hollingsworth, "OBBBA Conformity Could Help Indiana's Small Businesses, Org Says," *Tax Notes State*, Dec. 8, 2025, p. 741.

<sup>10</sup> U.S. Department of the Treasury, "Liberal States Blocking Historic Tax Cuts for Hardworking Americans and Workers" (Dec. 10, 2025).

<sup>11</sup> Alabama DOR "The One, Big, Beautiful Bill Act: Analysis and Tax Provisions: Executive Summary" (Oct. 31, 2025; updated Nov. 10, 2025).

specific conformity, the same effective dates for these changes will also apply for Alabama purposes.<sup>12</sup> Consistent with the Joint Committee on Taxation projections cited in the footnotes, Alabama's corporate income tax revenues have decreased dramatically, over 30 percent in the aggregate, from September 2025 through November 2025, while corporate income tax refunds in the aggregate increased by almost 90 percent.<sup>13</sup> Most observers believe those wide swings are largely a result of taxpayers taking advantage of the retroactive effective dates for the changes to bonus depreciation, R&E expense amortization, and business interest limitations through reduced quarterly estimates or accelerated refund claims.

Individual and corporate Alabama income taxpayers are subject to OBBBA interest deduction caps, although the DOR's summary recognizes that corporate taxpayers may not have to limit the separate company interest deduction under section 163(j) if the consolidated group is not subject to a limit at the federal group level.<sup>14</sup> Alabama's financial institution excise taxpayers are not subject to IRC section 163(j) limits and will continue to decouple from this provision post-OBBBA.

The DOR concluded that because of the 2021 decoupling legislation enacted in response to the changes implemented by the TCJA, the OBBBA's complicated changes in international taxation and the taxation of foreign-source income were not incorporated into Alabama income tax law.<sup>15</sup> Not every state was able to reach the same conclusion. For example, although the Iowa Legislature decoupled from taxing global intangible low-taxed income, by virtue of retroactive legislation enacted in 2020, the Iowa DOR concluded that the narrowly crafted decoupling language will not prevent the state from taxing net CFC tested income and allowing the new foreign-derived

deduction-eligible income deduction, effective for tax years beginning on or after January 1, 2026.<sup>16</sup> There are several other states with similar decoupling language that may follow Iowa's path.

## Conclusion

The Alabama Legislature and many others will soon convene to examine or revisit the short- and long-term impacts of the OBBBA on their income tax revenues. In doing so, lawmakers in those states are urged to consider the positive economic effects of these changes and also understand that the changes to the bonus depreciation and R&E expense amortization rules, for example, are merely timing differences. Given that Alabama's piecemeal conformity for individual income tax purposes did not incorporate several of the more "costly" individual tax changes (for example, the new deductions for qualifying overtime and tip income), it's possible that the long-awaited revenue projections from the OBBBA's changes will not be as fiscally severe in Alabama as in other states that have broader conformity statutes. That may insulate the biggest three pro-business changes from potential decoupling legislation. ■

<sup>12</sup> Katie Lobosco, "JCT: Retroactive Bonus Depreciation to Cost \$16 Billion in 2025," *Tax Notes Federal*, Dec. 8, 2025, p. 1737.

<sup>13</sup> Alabama DOR, "Revenue Abstract" (Nov. 2025).

<sup>14</sup> See Ala. Code section 40-18-39.1.

<sup>15</sup> See Ala. Code section 40-18-35.2.

<sup>16</sup> See Iowa DOR, "GILTI/NCTI and FDII/FDDEI" (Nov. 4, 2025). For a helpful article on point, see Alysse McLoughlin and Kathleen M. Quinn, "GILTI Is No Longer GILTI. How Will That Affect States?" *Tax Notes State*, Aug. 4, 2025, p. 305.