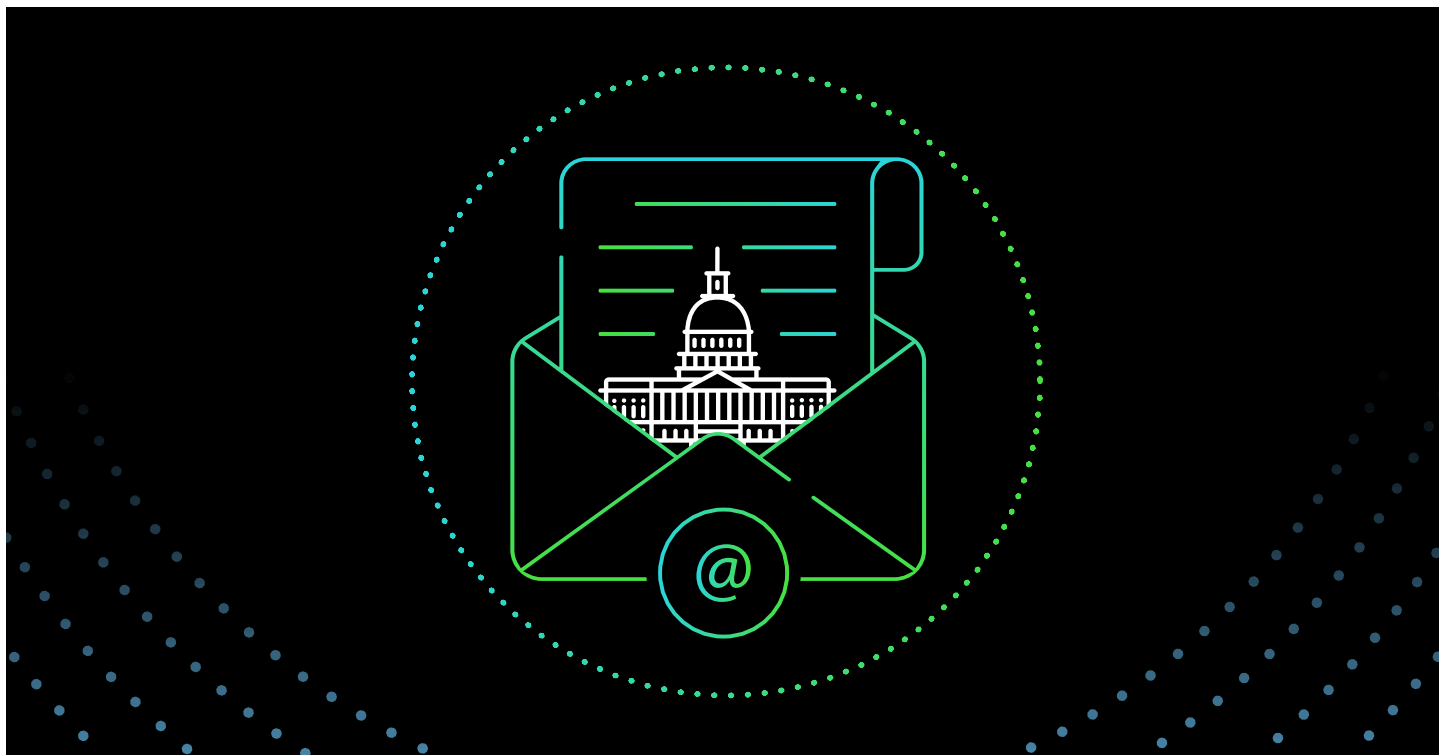




Tax News & Views

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Shutdown week six: Bipartisan dialogue gains traction; ACA subsidies remain a sticking point

Now entering the sixth week of a federal government shutdown, the crisis is marked by missed paychecks, disruptions to social programs, including food aid, increasing travel delays, and a failure to extend expiring health insurance subsidies ahead of the November 1 start of the Affordable Care Act (ACA, [P.L. 111-148](#)) open enrollment period – an event characterized by premium hikes blamed at least in part on the soon to lapse enhanced premium tax credit (PTC) currently set to expire on December 31. Amid these challenges, bipartisan discussions among a small group of lawmakers appear to be gaining momentum, possibly offering a path toward resolution, but the outcome is still uncertain.

Even as Senate Majority Leader John Thune (R-S.D.) indicated at the beginning of the week that he was hopeful that an agreement could be reached to end the shutdown by week's end, Senate Democrats – with only a few exceptions – rejected the House-approved Republican-drafted continuing resolution (CR) – the Continuing Appropriations and Extensions Act, 2026 ([H.R. 5371](#)), by a vote of 54-44 on November 4, marking the 14th time the measure failed to advance due to falling short of the 60-vote threshold for clearing certain procedural hurdles in the Senate. The bill would extend government funding at FY2025 levels through Nov. 21, but omits an extension of the enhanced PTC that Democratic lawmakers in both chambers have insisted must be part of any stopgap funding bill. As with previous votes on this CR, only one

Senate Republican – Rand Paul of Kentucky – has continued to oppose the measure, leaving the GOP in need of support from at least eight Democratic senators to advance it. Yet, only two Democrats – Catherine Cortez Masto of Nevada and John Fetterman of Pennsylvania – and one Independent who caucuses with the Democrats, Angus King of Maine, have continued to support it, leaving Republicans short of the votes needed to proceed.

Originally enacted under the ACA and boosted by the American Rescue Plan Act (P.L. 117-2) and the Inflation Reduction Act (IRA, P.L. 117-169), the enhanced PTC – the centerpiece of the current policy dispute – expands eligibility and increases the subsidy benefit to help qualifying individuals and families afford health insurance through the Health Insurance Marketplace, commonly known as the exchanges. As a refundable credit, the PTC can be claimed by eligible taxpayers even if it is more than the amount of their federal tax liability; and it may be paid in advance to reduce monthly premium costs.

IRS furloughs

One consequence of the federal government shutdown is the furloughing of employees, including those at the IRS. According to the updated Fiscal Year 2026 Lapsed Appropriations Contingency Plan, of the agency's 74,299 employees, 39,982 are currently working – an increase of 112 employees from the initial count of 39,870 last month – while the remainder continue to be furloughed. The modest increase in actively working agency staff comes as the Treasury Department and IRS prepare for the upcoming filing season and carry out necessary actions to implement tax provisions under the law commonly known as the One Big Beautiful Bill Act (OBBBA, P.L. 119-21). The contingency plan specifies that these activities will continue during the shutdown; however, certain activities – including operating taxpayer call centers during the non-tax-return filing season – will be suspended during the lapse. For the first five business days of the shutdown, the IRS maintained full operations and retained all of its employees by drawing on supplemental funding provided under the IRA. (For prior coverage, see [Tax News & Views](#), Vol. 26, No. 40, Oct. 10, 2025.)

Political messaging and strategic positioning

While Senators attempt to identify a path out of the shutdown, the direction of any eventual solution remains uncertain, as Democrats – five more of whom are needed to pass a short-term funding bill – continue to hold differing views on the best way forward. Many Senate Democrats appear firm in their position that the government should not be reopened until an agreement is reached to extend the enhanced PTC, a stance underscored by Democratic Sens. Tina Smith of Minnesota and Elizabeth Warren of Massachusetts – both members of the Finance Committee – who recently joined Sen. Chris Murphy (D-Conn.) in hosting a roundtable in Miami to discuss healthcare. During the event, Murphy outlined the stakes of the shutdown dispute, and called on Republicans to engage with Democrats to address what he called a healthcare crisis.

"This fight matters. As you know, the government is shut down right now, and what Democrats have said is that we want to get the government open, but not with an immoral budget that throws millions of people off their health care... If we're going to fund the government, let's fund a government that doesn't result in the kind of devastation of the health care system that is planned under the current trajectory. Are we going to help the billionaires and the corporations? Are we going to help regular people throughout the country?"

Public messaging has been reflected by other efforts, as indicated in a letter sent Tuesday by 28 Democratic lawmakers to Department of Health and Human Services Secretary Robert F. Kennedy warning that "[o]ver 24 million Americans who get their health insurance through the Affordable Care Act (ACA) will see their premiums skyrocket next year, and families receiving enhanced premium tax credits will face the largest price hike in history if the tax credits expire." Also this week, Senate Minority Leader Chuck Schumer (D-N.Y.) and House Minority Leader Hakeem Jeffries (D-N.Y.) urged President Trump to convene an immediate bipartisan meeting with legislative leaders, which include Leader Thune and Speaker Mike Johnson (R-La.), to resolve the shutdown and address what they called a Republican-driven healthcare crisis – emphasizing Democrats' readiness to meet "face to face, anytime and anyplace." (Schumer and Jeffries also sent a letter to Trump dated September 20, asking for a meeting ahead of the government shutdown.)

On the Republican side, Leader Thune – along with most of his GOP colleagues – has been a consistent advocate for reopening the government before engaging in broader policy negotiations, including those related to the enhanced credit. Thune has criticized Democrats for what he described as a politically motivated shutdown which he said has been hurting the American people. "Democrats have snarled air traffic. They've damaged small businesses. They've left federal workers in line at food banks. They've jeopardized food assistance – food assistance, Mr. President – for 40 million Americans," said Thune on Wednesday.

At the same time, Thune has signaled a willingness to consider a vote on a broader funding package to reopen the government, including a bill that would address additional priorities, but without mentioning an extension of the enhanced PTC. While this step may not necessarily indicate a shift toward bipartisan cooperation on tackling issues surrounding the enhanced credit, it suggests some flexibility in negotiations to reopen the government. “Republicans are one-hundred percent willing to sit down and talk about the mess that Democrats have created,” he [said](#) on Thursday. “We’re just not going to have that conversation while Democrats are holding the federal government hostage,” referring to a possible extension of the enhanced PTC as a condition to reopen the government.

Meanwhile, Sen. Mike Rounds (R-S.D.), who has played an active role in the bipartisan negotiations, has – like Sen. Thune – emphasized the importance of reopening the government as a prerequisite for meaningful compromise, [stating](#) in his weekly newsletter that – “I hope my Democrat colleagues decide to work with us to open the government up. After that happens, we can continue to work through the pressing issues that are facing the American people.”

House’s dueling press conferences: For the past six weeks, House leadership on both sides of the aisle have held competing press conferences on a nearly daily basis to present their positions on the shutdown – each highlighting their own efforts and criticizing what they considered to be the other party’s inaction. Republican leadership, led by Speaker Johnson, has consistently emphasized that Republicans have fulfilled their responsibility to keep the government open by passing H.R. 5371. More broadly, he maintained that they have been delivering for the American people, while asserting that Democrats have been inflicting pain by refusing to support the House-approved Republican-drafted CR.

Democratic Minority Leader Hakeem Jeffries (D-N.Y.), for his part, has criticized what he described as the Trump administration and Congressional Republicans’ failure to take action to lower costs for American taxpayers, while stressing Democrats’ commitment to reaching a funding agreement that addresses the nation’s healthcare crisis – particularly as it relates to extending the enhanced PTC – as well as making life more affordable. He also pointed to changes to healthcare provisions in the Republican-drafted OBBBA, which Jeffries said has had the effect of “ripping food out of the mouths of hungry children, seniors, and veterans.”

Discussions are ongoing, but will it be fruitful?

Against the backdrop of partisan tensions, some discussions appear to be gaining traction this week among a group of Republican and Democratic lawmakers, who are working toward a bipartisan agreement that could include scheduling a vote on the enhanced PTC, establishing a framework for advancing full-year appropriation bills, and introducing a new short-term funding bill – particularly as the Nov. 21 end date in the House-approved Republican-drafted CR is increasingly viewed as unworkable. As part of an appropriations framework, negotiators are considering pairing the CR with a revised end date and a three-bill minibus which would fund agencies and functions covered under the Military Construction-VA, Agriculture-FDA and Legislative Branch appropriation bills. If a deal does come together, Members have expressed a range of preferences regarding a new end date for a short-term stopgap bill, with suggestions spanning from mid-December to sometime in 2026. Even if acceptable terms can be found on those items, discussions seem to remain at an impasse about what to do, if anything, with respect to the expiring premium credit, with some Republicans suggesting they would allow a vote on them in the Senate, an offer many Democrats view as insufficient, particularly in light of Speaker Johnson’s pointed refusal to commit to have a vote on such a measure in the House.

Still, even as negotiations continue, efforts to break the impasse have so far fallen short. As of press time, a revised funding bill that was expected to be considered on Friday, November 7, has not been voted on. Instead, the Senate took up the Excepted Federal Employees Appropriations Bill (S.3012), a revised version of the Shutdown Fairness Act ([S.3012](#)) – on a motion to invoke cloture. The measure failed to advance, falling short of the 60-vote threshold for clearing certain procedural hurdles in the Senate, with a vote of 53-43. The bill would provide appropriations to pay federal employees who work during a government shutdown. While Senate work is anticipated over the weekend, the outlook for further action is cloudy at this point. Meanwhile, buoyed by what they perceive as a strong showing in the off-year election on Tuesday of this week, there appears to be an enhanced willingness among many Senate Democrats to hold firm in rejecting proposals that fall short of addressing healthcare affordability concerns. This stance largely coincides with Schumer’s offer he made on the Senate floor this afternoon: a one-year extension of the enhanced PTC, coupled with a bipartisan effort to craft a long-term healthcare solution and a continuing resolution that includes the three-bill minibus appropriations – an approach intended to provide an off-ramp for both parties.



Bipartisan blueprint

In the midst of these entrenched divisions and ongoing policy standoffs, a bipartisan group of House lawmakers – Reps. Don Bacon (R-Neb.), taxwriter Tom Suozzi (D-N.Y.), Jeff Hurd (R-Colo.), and Josh Gottheimer (D-N.J.) – [released](#) a set of principles on Monday aimed at temporarily extending and reforming the enhanced PTC, including a two-year extension of the enhanced credit, with a phased income cap for those earning between \$200,000 and \$400,000. The lawmakers also outlined several guardrails to prevent improper payments, including requiring ACA marketplaces to verify recipient eligibility using the “death master file,” a federal database maintained by the Social Security Administration that contains information on deceased individuals; establishing a “preponderance of evidence” standard for determining whether agents or brokers should continue operating in the marketplaces; and improving notification requirements so recipients better understand the value of the credit they receive from the federal government.

The bipartisan group also stressed that “[w]e may not agree on every ideal outcome, but we’ve identified a fair, reasonable path forward on the future of the Affordable Care Act’s Enhanced Premium Tax Credits. Compromise isn’t rocket science and it shouldn’t be treated like a weakness,” underscoring their shared commitment to advancing practical reforms. However, the extent to which this set of principles will gain traction remains uncertain, given the wide-ranging and deeply rooted divisions within Congress on this issue.

Before the release of these principles, Rep. Jen Kiggans (R-Va.) introduced the Bipartisan Premium Tax Credit Extension Act ([H.R. 5145](#)), which would extend the enhanced PTC through 2026 and is now supported by 28 cosponsors, evenly split between Republicans and Democrats. In the weeks that followed, Reps. Kiggans and Jeff Van Drew (R-N.J.), with 11 of their House GOP colleagues, sent a [letter](#) to Speaker Johnson urging him to prioritize action on the enhanced PTC as soon as the government reopens. (For prior coverage, see [Tax News & Views](#), Vol. 26, No. 42, Oct. 24, 2025 and [Tax News & Views](#), Vol. 26, No. 36, Sept. 5, 2025.)

Filibuster reemerges

As part of his strategy to end the federal government shutdown, President Trump has called for eliminating the filibuster through the so called “nuclear option,” which would allow legislation to advance in the Senate with a simple majority vote – a message he amplified on social media and reiterated this week at remarks at a breakfast with Republican senators at the White House – urging Republicans to act swiftly. However, Leader Thune, among others, has in the past pushed back on that approach, suggesting that eliminating the filibuster to reopen the government would be a mistake and should be avoided, telling reporters that “[t]he votes aren’t there” to eliminate it all together.

Next steps

While most lawmakers remain firmly entrenched in their position, a small group has begun exploring potential off-ramps to the shutdown – now entering its sixth week – as President Trump adds pressure through a series of related social media posts and White House remarks. Whether these developments will shift the momentum is still unclear, as the possible extension of the enhanced PTC continues to be a central point of contention. In the coming days, attention will turn to whether this small coalition can translate its proposals into actionable legislation – amid growing urgency to resolve the shutdown and prevent further disruption to government operations. Those hopeful for a swift resolution will surely be looking to the skies – or the departure boards at airports around the country – to see if mandated reductions in flight volumes starting on November 7th in response to a declining number of air traffic controllers being willing to show up for work without pay will be so disruptive that lawmakers are forced to find an off-ramp.

Turning to potential future legislative strategies, Senate Budget Committee Chairman Lindsey Graham (R-S.C.) met this week with fellow Republican senators to discuss advancing a new, party-line policy bill in the coming months – sometimes called “OBBBA 2.0.” This term refers to a follow-on to the tax and spending bill Republicans enacted into law earlier this summer, which was passed using budget reconciliation rules. Provided strict parliamentary and procedural requirements are met, bills advanced through reconciliation can pass both the House and Senate with a simple majority, bypassing the usual three-fifths (60-vote) threshold required in the Senate. This approach remains a powerful tool for Republicans, who currently hold 53 Senate seats – just short of the number needed to circumvent a filibuster under regular order. There are no details yet on what such a bill might contain, but some Republicans have pointed to a second reconciliation bill as a way to advance a variety of the party’s health policy priorities while others would like to tackle deficit reduction or other policies left out of OBBBA as part of any future effort. Whether an OBBBA 2.0 bill will ultimately advance through Congress and be enacted into law remains highly uncertain.

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IRS, Treasury offer relief on OBBBA's tips and overtime; Supreme Court weighs tariff legality

This week, two of President Trump's signature economic priorities - the law commonly known as the One Big Beautiful Bill Act (OBBBA, [P.L. 119-21](#)) and tariffs - are in focus, with new guidance released that implements the OBBBA's campaign-driven provisions on tipped income and overtime pay, while the Supreme Court weighs the legality of the president's hallmark tariff policy.

For further analysis of the OBBBA, see: [A closer look: Inside the new tax law](#) prepared by Deloitte Tax LLP's specialists.

Tips and overtime get penalty relief

Employers and other payors will receive a one-year reprieve from certain penalties related to reporting requirements for qualified cash tips and overtime compensation. In [Notice 2025-62](#), issued by the IRS and the Treasury Department, penalty relief is granted – under section 6721 for failure to file correct information returns and section 6722 for failure to furnish correct payee statements – for taxable year 2025, in connection with the implementation of new reporting rules introduced by the OBBBA, signed into law on July 4. (IRS News Release [IR-2025-110](#), Nov. 5, 2025) (For prior coverage of proposed regulations covering the tipped income provision, see [Tax News & Views](#), Vol. 26, No. 38, Sept. 19, 2025.)

Specifically, the notice outlines eight circumstances under which the IRS will not impose a penalty for cash tips and four circumstances involving qualified overtime compensation that will entitle employers to penalty relief. During this transition year, employers and other payors will not be subject to penalties under sections 6721 or 6722 for failing to provide a separate accounting of any amounts reasonably designated as cash tips or the occupation of the person receiving the tips. Similarly, no penalties will apply for failing to report the total amount of qualified overtime compensation. However, this relief applies only if the filer otherwise submits a complete and correct return or statement.

While workers may be eligible to claim the new benefits for compensation paid in 2025, the IRS has acknowledged that employers and other payors may not yet have the necessary information, systems, or procedures in place to comply with the updated reporting requirements introduced by the OBBBA. Additionally, the IRS has announced that Forms W-2 and 1099 for taxable year 2025 will not be updated to account for the OBBBA-related changes; therefore, taxable year 2025 will be treated as a transition period for enforcement and administration of the new reporting rules for cash tips and qualified overtime compensation.

Under the OBBBA, for taxable years beginning after December 31, 2024 and before January 1, 2029, employees and self-employed individuals may deduct up to \$25,000 in qualified tips from gross income when calculating federal income tax liability. This deduction phases out for taxpayers with modified adjusted gross income exceeding \$150,000 (\$300,000 for joint filers). In addition, for the same tax years, individuals may claim a new deduction of up to \$12,500 (\$25,000 for joint filers) – reduced (but not below zero) by \$100 for each \$1,000 by which the taxpayer's modified adjusted gross income exceeds \$150,000 (\$300,000 for joint filers) – for qualified overtime compensation, defined as overtime compensation paid to an individual under section 7 of the Fair Labor Standards Act of 1938 that exceeds the employee's regular rate of pay.

To take advantage of the new deductions, the guidance encourages employers and other payors to provide employees and payees with the necessary information to ensure they can claim the deduction for qualified tips and qualified overtime compensation when filing their 2025 tax return. Specifically, workers in tipped occupations should receive occupation codes and separate accountings of cash tips, while those earning overtime should be given a breakdown of the pay received for extra hours worked.

The notice maintains that additional guidance for individual taxpayers that addresses how they can claim the deductions for qualified tips and qualified overtime compensation when filing the 2025 taxable year return is forthcoming.

Direct file program suspended

Separately, the Treasury Department announced in a new congressionally mandated [report](#) that the Direct File program – an IRS initiative that enabled certain qualifying taxpayers in participating states (expanded to 25 states during the 2025 filing season) to prepare and file their federal tax returns online through a system maintained by the IRS for free – has been suspended.

The Treasury Department calculated that each return accepted through the Direct File program cost at least \$138, describing the program as costly and burdensome to the federal government, especially in light of other free filing options available to taxpayers, including a longstanding public-private partnership between the IRS and a group of online tax preparation software partners, as well as several in-person volunteer programs.

Reaction on Capitol Hill broke along party lines, with GOP lawmakers pleased with the conclusion that Direct File is now suspended. “It wasn’t just unlawful for Democrats to expand the authority of the IRS without congressional authorization, it turns out that taxpayers simply didn’t want to use the costly and ineffective government-run Direct File tax program either that would have made the IRS the tax preparer, filer, and auditor for Americans,” House Ways and Means Committee Chairman Jason Smith (R-Mo.) said in a [statement](#).

Across the aisle, Senate Finance Committee Ranking Member Ron Wyden (D-Ore.) criticized the decision following reports that the Trump administration had notified states of its decision to terminate the program this week. He said in a [statement](#) that “[t]he Trump administration operates like a laser-guided weapon aimed at any useful public service that saves Americans time and money. The only thing Trump accomplishes by doing this is stealing from working class taxpayers to pad the profits of giant, rent-seeking tax software companies.”

Tariff cases land at the Supreme Court

The Supreme Court on Wednesday [heard](#) oral arguments in two consolidated cases challenging some of President Trump’s tariffs, as plaintiffs urged the justices to reject the administration’s reliance on a specific legal authority to justify the measures. Central to the dispute is whether the International Emergency Economic Powers Act (IEEPA) grants the president the authority to impose a range of tariffs enacted since he took office pursuant to several declared national emergencies.

In a Sept. 9 [order](#), the Court granted certiorari on an expedited schedule and consolidated the two cases – *Learning Resources Inc., et al. v. Trump, President of the United States* (24-1287) and *Trump, President of the United States v. V.O.S. Selections Inc., et al.* (25-250).

On one side of the debate, several small businesses and a dozen states argued that the administration exceeded the limits of IEEPA; while administration lawyers maintained that the 1970s law grants the president broad power to use tariffs as a tool to fight the economic emergencies he declared. In a White House [Fact Sheet](#) issued on April 2, President Trump “declared that foreign trade and economic practices have created a national emergency, and his order imposes responsive tariffs to strengthen the international economic position of the United States and protect American workers.”

Some of the justices appeared skeptical of the government’s arguments, based on the probing questions they raised throughout the hearing. Their inquiries touched on key statutory interpretations and the broader implications of the government’s position, signaling that the Court is actively weighing the complexities at play. While the tone and tenor of the discussions may suggest that the Court might agree that the tariff regime under IEEPA does not survive judicial scrutiny, the direction of questions asked by Justices is not necessarily an indicator of how they will ultimately decide a pending case. Moreover, administration officials have made clear they are contemplating the extent to which other statutory grants of authority might be used to replicate these tariffs in the event of an adverse ruling from the Supreme Court.

A decision from the Supreme Court – which is not expected immediately as rulings typically follow oral arguments by several months – could have far-reaching implications for the Trump administration’s economic policies. Notably, the nonpartisan Congressional Budget Office has [estimated](#) that the tariff increases implemented during the period from Jan. 6, 2025, to August 19 could reduce total deficits by \$4.0 trillion (including net outlays for interest), assuming the elevated tariffs remain in place for the 2025-2035 period.

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