



**Brown Plus**  
ACCOUNTANTS + ADVISORS

# 2025 INSURANCE WEBINAR

DECEMBER 16, 2025

## PRESENTED BY:

- ▮ **SCOTT ESORTHY, CPA, *AUDIT PRINCIPAL***
- ▮ **MATT HARVEY, CPA, MSPA, *TAX SENIOR MANAGER***

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# PRESENTERS



**Scott Esworthy, CPA**  
*Audit Principal*  
*Brown Plus*



**Matt Harvey, CPA, MSPA**  
*Tax Senior Manager*  
*Brown Plus*

# AGENDA

- Adoptions to Statutory Accounting Guidance
- Blanks Working Group Modifications to Financial Statements and Instructions
- Key Revisions to Notes to the Annual Statement and Audited Statutory Financial Statements
- Exposed Statutory Accounting Principle Concepts and Clarifications to Statutory Accounting Guidance
- OBBBA: Business Tax Updates
- Q&A

# SOURCES OF PRESENTATION CONTENT

This presentation will primarily review the most recent Statutory Accounting Principles Working Group and Blanks Working Group meetings throughout 2025.

Below we have added a link to the NAIC Adoptions by the SAPWG, covering recent adoptions through August 11, 2025:

- <https://content.naic.org/committees/e/statutory-accounting-principles-wg/adoptions>

Also, we have added a link to the Blanks Working Group – Adopted modifications to Financial Statements and Instructions:

- [https://content.naic.org/cmt\\_e\\_app\\_blanks\\_related\\_adopted\\_mods.htm](https://content.naic.org/cmt_e_app_blanks_related_adopted_mods.htm)

# Adoptions to Statutory Accounting Guidance

# ADOPTIONS TO STATUTORY ACCOUNTING GUIDANCE

## Effective for 2024

- Adopted September 12, 2024
  - **Ref #2024-01:** *Bond Definition-Debt Securities Issued by Funds* – This item modifies *Statement of Statutory Accounting Principles (SSAP) No. 26 – Bonds* to clarify guidance in the principles-based bond definition on the treatment of debt securities issued by funds. With this adoption, debt securities issued by non-SEC registered funds that reflect operating entities can qualify as issuer credit obligations. The guidance requires assessment as to the purpose of the issued debt security and is explicit that debt securities issued for the raising of debt capital are required to be assessed as asset-backed securities.

# ADOPTIONS TO STATUTORY ACCOUNTING GUIDANCE

## Effective for 2024

- Adopted November 17, 2024
  - **Ref #2019-21:** *Principles-Based Bond Definition Implementation Questions and Answers – INT 24-01* – Addresses specific questions related to the implementation of the principles-based bond definition. This item will be classified as a SAP clarification. The revisions to the SSAPs impacted by this guidance have a January 1, 2025, effective date.
  - **Ref #2024-11:** *ASU 2023-09, Improvements to Income Tax Disclosures* – This item adopts revisions to SSAP No. 101 – *Income Taxes* to reject ASU 2023-09 for statutory accounting purposes and deletes the disclosure detailed in SSAP No. 101, paragraph 23.b (the cumulative amount of each type of temporary difference for which a DTL has not been recognized), as it was determined to be no longer relevant due to changes made to federal tax codes through the Tax Cuts and Jobs Act (TCJA).
  - **Ref #2024-17:** *Clearly Defined Hedging Strategy* – This item modifies SSAP No. 108 – *Derivatives Hedging Variable Annuity Guarantees* to update the definition of a clearly defined hedging strategy (CDHS) to reflect the revised guidance captured in VM-01 versus the guidance formerly referenced in VM-21.

# ADOPTIONS TO STATUTORY ACCOUNTING GUIDANCE

## Effective for 2024

- Adopted November 17, 2024, *continued*
  - **Ref #2024-18:** *Clarification of Accounting Guidance for Recognition of Tax Credits* – This item modifies SSAP No. 93 – *Investments in Tax Credit Structures* to clarify the accounting guidance for recognizing allocated and purchased tax credits in relation to the journal entry example. It modifies SSAP No. 94 – *State and Federal Tax Credits* to fix an inconsistency between the accounting guidance and the journal entry examples and modifies SSAP No. 48 – *Joint Ventures, Partnerships and Limited Liability Companies* to revise a sentence inadvertently not updated as part of the project. The revisions to the SSAPs impacted by this guidance have a January 1, 2025, effective date.

# ADOPTIONS TO STATUTORY ACCOUNTING GUIDANCE

## Effective for 2024

- Adopted November 17, 2024, *continued*
  - **Ref #2024-19:** *ASU 2024-02, Codification Improvements – Amendments to Remove References to the Concepts Statements* – This item adopts revisions to *Appendix D – Nonapplicable GAAP Pronouncements* to reject ASU 2024-02 as not applicable to statutory accounting. The guidance is not considered relevant to the existing statutory accounting reference to FASB Concept statements.

# ADOPTIONS TO STATUTORY ACCOUNTING GUIDANCE

## Effective for 2025

- Adopted March 24, 2025
  - **Ref #2024-20:** SSAP No. 1 – *Accounting Policies, Risks & Uncertainties and Other Disclosure*: Adopted revisions to require restricted asset disclosure for modified coinsurance (modco) and funds withheld assets reported within a ceding company's financial statements. Recommended note illustrations and general interrogatory revisions to improve the restricted asset disclosure.
  - **Ref #2024-24:** INT 24-02 – *Medicare Part D Prescription Payment Plans* and INT 05-05: *Accounting for Revenues Under Medicare Part D Coverage*: Adopted INT 24-02 and edits to INT 05-05 to provide accounting and reporting for the Medicare Part D prescription payment plan.

# ADOPTIONS TO STATUTORY ACCOUNTING GUIDANCE

## Effective for 2025

- Adopted March 24, 2025
  - **Ref #2023-28:** *Annual Statement Blanks* – Adopted reporting recommendations to provide granular reporting lines on Schedule BA: Other Invested Assets for Collateral Loans. A corresponding blanks proposal is concurrently exposed.

# ADOPTIONS TO STATUTORY ACCOUNTING GUIDANCE

## Effective for 2025

- Adopted May 22, 2025
  - **Ref #2023-24:** *Current Expected Credit Losses (CECL)* – This item adopts Issue Paper No. 171 – Current Expected Losses (CECL), clarifying the issue paper is for historical reference only and should not be construed to provide statutory guidance. In addition, the issue paper will not be included in the 2026 AP&P manual and will only be available electronically on the NAIC website.
  - **Ref #2025-04:** *Capital Structure Code* – This item deletes the capital structure code reporting column (Column 37) from Schedule D-1-1: Long-Term Bonds – Issuer Credit Obligations (D-1-1) and Schedule D-1-2: Asset-Backed Securities (D-1-2) for year-end 2025. There is a comment letter and corresponding BWG proposal, 2025-11BWG, to be discussed for adoption in the May 29, 2025, BWG meeting.

# ADOPTIONS TO STATUTORY ACCOUNTING GUIDANCE

- Adopted May 22, 2025, *continued*
  - **Ref #2025-05:** *Reinsurer Affiliated Assets* – This item modifies SSAP No. 1 – *Accounting Policies, Risks & Uncertainties, and Other Disclosures* to expand the restricted asset note disclosure (Note 5.L) to capture information, by investment schedule, of funds withheld assets that are related to/affiliated with the reinsurer. It also adds language in paragraph 23 of the SSAP that the restricted asset disclosure will be a required note in all quarterly and annual financial statements, effective with the 2025 Annual Statement and Q1 2026 Quarterly Statement. There is a corresponding BWG exposure (2025-10BWG) that will be discussed for adoption in the May 29, 2025, BWG meeting.
  - **Ref #2025-08:** *Medicare Part D Prescription Drug Payment Plan Disclosures* – This item modifies SSAP No. 84 – *Health Care and Government Insured Plan Receivables* to add disclosures for Medicare Part D Prescription Payment Plan receivables to Note 28 – *Health Care Receivables* starting with the 2025 Annual reporting period. This item has a corresponding BWG exposure (2025-04BWG) that will be discussed for adoption in the May 29th, 2025 BWG meeting. NAIC staff recommends the BWG adopt 2025-04BWG after modifying the proposal to remove the prior year column from the Annual Statement instructions and illustrations for Note 28.C(1).

# ADOPTIONS TO STATUTORY ACCOUNTING GUIDANCE

## Effective for 2025

- Adopted August 11, 2025
  - **Ref #2025-17EP:** SSAP No. 26—*Bonds*, SSAP No. 41—*Surplus Notes*, SSAP No. 56—*Separate Accounts, and Interpretation (INT) 22-01: Freddie Mac When Issued K-Deal (WI Trust) Certificates*: Adopted various editorial revisions, including updates to disclosures, removing a remaining credit rating provider (CRP) designation, and removing superseded terminology.
  - **Ref #2025-02:** SSAP No. 15—*Debt and Holding Company Obligations: Adopted Accounting Standards Update (ASU) 2024-04, Debt—Debt with Conversion and Other Options*, with modification to provide clarifications on induced conversions, including when the inducement shall be recognized as an expense by the issuer, as well as the fair value measurement of that expense.

# ADOPTIONS TO STATUTORY ACCOUNTING GUIDANCE

- Adopted August 11, 2025, *continued*
  - **Ref #2025-16:** *Accounting Practices and Procedures Manual (AP&P Manual):* Adopted revisions to the 2026 AP&P Manual to streamline the status section of each SSAP. The status section would no longer reference issue papers, and references to “substantively revised” would be changed to “conceptually revised” to be consistent with previously adopted policy statement language.
  - *Appendix D—Nonapplicable GAAP Pronouncements:* The following U.S. generally accepted accounting principles (GAAP) standards were adopted for rejection as they are not applicable to statutory accounting:
    - **Ref #2025-10: i.** ASU 2023-07, Improvements to Reportable Segment Disclosures.
    - **Ref #2025-11: ii.** ASU 2024-03, Disaggregation of Income Statement Expenses and ASU 2025-01, Clarifying the Effective Date of ASU 2024-03.
    - **Ref #2025-15: iii.** ASU 2017-05, Other Income—Gains and Losses from the Derecognition of Nonfinancial Assets (Subtopic 610-20), Clarifying the Scope of Asset Derecognition Guidance and Accounting for Partial Sales of Nonfinancial Assets (Ref #2025-14) iv. ASU 2025-02, Liabilities (Topic 405), Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 122.

# Blanks Working Group Modifications to Financial Statements and Instructions

## BLANKS WORKING GROUP MODIFICATIONS TO FINANCIAL STATEMENTS AND INSTRUCTIONS

Reference Number	Adopted/ Effective Date	Description	Statement Type
<a href="#">2014-19BWG Modified</a>	5/29/25 Quarterly 2026	Update Schedule BA line categories and instructions for the expansion of collateral loans. Add two electronic-only columns on Schedule BA, Part 1 for reporting fair value of collateral backing and the percentage of the collateral. Update the Asset Valuation Reserve instructions and blank for the added collateral loan lines.	H, L/F, P/C, T, SA
<a href="#">2024-16BWG</a>	3/6/2025 Quarterly 2026	Remove the quarterly investment interrogatory line 13 for reporting mortgages and real estate in short-term investments. Renumber all lines below the line being removed.	H, L/F, P/C, T
<a href="#">2025-01BWG Modified</a>	5/29/25 Annual 2025	Update Note to Financial Statements Note 8 – Derivatives to include adopted revisions to <i>SSAP No. 86—Derivatives</i> . Also update Note 11 – Debt for the adopted revisions to <i>SSAP No. 15—Debt and Holding Company Obligations</i> .	H, L/F, P/C, T
<a href="#">2025-02BWG</a>	5/29/25 Annual 2025	Update Note to Financial Statements Note 9 – Income Taxes to include adopted revisions to <i>SSAP No. 101—Income Taxes</i> .	H, L/F, P/C, T
<a href="#">2025-04BWG Modified</a>	5/29/25 Annual 2025	Add a new part to Note to Financial Statements Note 28 – Health Care Receivables to include Medicare Part D Prescription Payment Plans.	H, L/F, P/C
<a href="#">2025-06BWG Modified</a>	5/29/25 Annual 2025	Update Note 5L – Restricted Assets instructions and illustrations to make the changes for clarification on what should be reflected within the restricted asset note.	H, L/F, P/C, T
<a href="#">2025-07BWG</a>	5/29/25 Annual 2025	Update Schedule P with editorial revisions exposed by the Casualty Actuarial and Statistical (C) Task Force.	P/C

## BLANKS WORKING GROUP MODIFICATIONS TO FINANCIAL STATEMENTS AND INSTRUCTIONS

Reference Number	Adopted/ Effective Date	Description	Statement Type
<a href="#">2025-10BWG Modified</a>	5/29/25 Annual 2025	Update Note 5L to identify assets held under funds withholding agreements (including modco) that are affiliated with the reinsurer. Also updated the list of required quarterly disclosures to include Note 5L – Restricted Assets. With this change, this disclosure will be required in all interim and annual financial statements.	H, L/F, P/C, T
<a href="#">2025-11BWG</a>	5/29/25 Annual 2025	Remove the capital structure code reporting column on Schedule D, Part 1, Sections 1 and 2.	H, L/F, P/C, T, SA
<a href="#">2025-13BWG Modified</a>	5/29/25 Annual 2025	Update Notes to Financial Statements Note 13K with disclosure updates to SSAP No. 41— <i>Surplus Notes</i> .	H, L/F, P/C, T
<a href="#">2025-14BWG</a>	5/29/25 Annual 2025	Add instructions to include Medicare Part D Prescription Payment Plan information to the Health Care and other amounts receivable line on the Asset Page, Supplemental Health Care Exhibit, Exhibit 3 – Health Care Receivables, and Exhibit 3A – Analysis of Health Care Receivables. (Title has been added to the proposal because the Assets page is uniform for all statements. The changes in the proposal are only for Life/Fraternal, Property/Casualty, and Health).	H, L/F, P/C, T
<a href="#">2025-15BWG Modified</a>	5/29/25 Annual 2025	Update Note 8 – Derivatives in the Notes to Financial Statements and Schedule DB to clarify the terminology used for derivative financing premium.	H, L/F, P/C, T, SA
<a href="#">2024-13BWG Modified</a>	3/6/2025 Annual 2025	Update the annual investment schedules for editorial items to the bond project. (Investment Sch. General Instructions, Sch. D Verification, Sch. D Part 1A, Sch. D Parts 3 & 4, Sch. DL Parts 1 & 2, and Sch. E Parts 1 & 2).	H, L/F, P/C, T, SA

## BLANKS WORKING GROUP MODIFICATIONS TO FINANCIAL STATEMENTS AND INSTRUCTIONS

Reference Number	Adopted/ Effective Date	Description	Statement Type
<a href="#">2024-14BWG Modified</a>	3/6/2025 Annual 2025	Update the 2025 annual (2026 quarterly) investment schedules line category for Bonds Issued by Funds Representing Operating Entities. (Annual – Investment Schedule General Instructions, Summary Investment Sch., Summary by Country, Sch. D Part 1A, Sch. D Part 1 Section 1, Sch. D Parts 3, 4 & 5, Sch. DA Part 1, Sch. DL Parts 1 & 2, and Sch. E Part 2/Quarterly – Investment Schedule General Instructions, Sch. D Parts 3 & 4, Sch. DL Parts 1 & 2, and Sch. E Part 2)	H, L/F, P/C
<a href="#">2024-15BWG</a>	3/6/2025 Annual 2025	Remove the ACA disclosure on the transitional reinsurance program and the risk corridors program from the Supplemental Health Care Exhibit.	H, L/F, P/C
<a href="#">2024-17BWG</a>	3/6/2025 Annual 2025	Add a line to the Market Conduct Annual Statement (MCAS) Premium Exhibit for Pet Insurance	H, L/F, P/C
<a href="#">2024-18BWG</a>	3/6/2025 Annual 2025	Add a footnote to the Supplemental Health Care Exhibit (SHCE) Part 2 to report the amount of premium deficiency reserves that are included in different lines of Part 2.	H, L/F, P/C
<a href="#">2024-20BWG Modified</a>	3/6/2025 Annual 2025	Add electronic-only contact information field to the annual and quarterly Jurat page for the Guaranty Association Assessment Contact.	H, L/F, P/C
<a href="#">2024-21BWG</a>	3/6/2025 Annual 2025	Update Sch. D Parts 4 & 5 instructions to add clarifying instructions on what should be included on the investment schedule.	H, L/F, P/C, T, SA
<a href="#">2024-22BWG</a>	3/6/2025 Annual 2025	Update Sch. BA definitions for Surplus Debentures and Capital Notes to add clarification on what should be reported in these categories.	H, L/F, P/C, T, SA

# BLANKS WORKING GROUP MODIFICATIONS TO FINANCIAL STATEMENTS AND INSTRUCTIONS

Reference Number	Adopted/ Effective Date	Description	Statement Type
<a href="#">2024-11BWG Modified</a>	8/7/2024 Annual/Quarterly 2025	Update the annual and quarterly instructions and blanks for the New Market Tax Credit (NMTC) changes. Annual changes will be made to: Assets, Notes to Financial Statements 5K, 14A, and 21E, Asset Valuation Reserve (AVR), and Schedule BA, Part 1, Part 3, and Verification Between Years. Quarterly changes will be made to: Assets and Schedule BA, Part 3, and Verification Between Years. The public comment period ended July 8, 2024.	H, L/F, P/C, SA, T
<a href="#">2024-12BWG Modified</a>	8/7/2024 Annual/Quarterly 2025	Update the quarterly investment schedules for editorial items to the bond project (Sch. D Verification, Sch. D Part 1B, Sch. D Part 3 & 4, Sch. DL Part 1 & 2, and Sch. E Part 1 & 2). Update the Quarterly Investment Schedule General Instructions for the changes that were adopted in the Annual Investment Schedule General Instructions. (Reference adopted proposal 2023-06BWG).	H, L/F, P/C, SA, T
<a href="#">2023-12BWG Modified</a>	5/23/2024 Annual/Quarterly 2025	Categorize debt securities on Schedule BA that do not qualify as bonds under <i>SSAP No. 26R—Bonds or SSAP No. 43R—Loan-Backed and Structured Securities and are captured in the scope of SSAP No. 21R—Other Admitted Assets</i> .	H, L/F, P/C, SA, T
<a href="#">2024-02BWG Modified</a>	5/23/2024 Annual/Quarterly 2025	Remove categories from Schedule DA, Part 1, and Schedule E, Part 2, that should be reported on Schedule BA. Add clarifying instructions on what should be included in the Other Short-Term and Other Cash Equivalent categories.	H, L/F, P/C, SA, T

# BLANKS WORKING GROUP MODIFICATIONS TO FINANCIAL STATEMENTS AND INSTRUCTIONS

Reference Number	Adopted/ Effective Date	Description	Statement Type
<a href="#">2023-06BWG Modified</a>	11/7/2023 Annual/Quarterly 2025	Split Schedule D, Part 1, into two sections: one for Issuer Credit Obligations and the other for Asset-Backed Securities (ABS). Update the other parts of the annual statement that reference the bond lines of business	H, L/F, P/C, SA, T
<a href="#">2023-07BWG Modified</a>	11/7/2023 Annual/Quarterly 2025	Update the Code column and delete the Legal Entity Identifier (LEI) column for the following investment schedules: Schedules A, B, BA, D Part 2, D Part 6, and E Part 1.	H, L/F, P/C, SA, T

# Key Revisions to Notes to the Annual Statement and Audited Statutory Financial Statements

## **NOTE 5K – INVESTMENTS IN TAX CREDIT STRUCTURES (SSAP No. 93)**

- Nature of use, amount recognized, present balance, amortization, schedule of credits expected annually, commitment or contingent commitment, impairment
  - Disclosure of credits allocated from tax credit investments and unused as of reporting period moved to Note 21 (SSAP No. 94 - *State and Federal Tax Credits*)

## NOTE 5L – RESTRICTED ASSETS; (2025-10)

- Revisions to *SSAP No. 1*; review carefully
  - Extensive new disclosure of assets held under modified coinsurance (modco) or funds withheld (FWH) reinsurance agreements
    - Both ceded and assumed assets
- Includes ALL restricted assets reported on the financial statements

## **NOTE 9 – INCOME TAX**

- Deletes cumulative temporary differences disclosure

## **NOTE 11 – DEBT**

- New section 11C providing information for unused commitments and lines of credit

## NOTE 13K – SURPLUS NOTES

- Slightly updated disclosure via revisions to *SSAP No. 41*
- Only insurer-issued notes qualify as surplus notes

### **New definitions of surplus and capital notes in *SSAP No. 41***

- Definition of surplus note added, “that qualifies as a surplus note pursuant to *SSAP No. 41*”
- Capital Notes – Held debt securities that do not qualify as issued surplus notes pursuant to *SSAP No. 41*, that are treated as regulatory capital by the issuer’s primary regulatory authority & do not qualify under the principles-based bond definition solely because interest can be cancelled in the even of financial stress in a non-resolution scenarios without triggering an event of default

## **NOTE #14A – CONTINGENT COMMITMENTS**

- Include any commitment to purchase tax credits (*SSAP No. 94*)

## **NOTE #21E – STATE AND FEDERAL TAX CREDITS**

- Addition of unused tax credits disclosure & commitment or contingent commitment to purchase tax credits (*SSAPs No. 93 & 94*)
  - Partially data captured

# Exposed Statutory Accounting Principle Concepts and Clarifications to Statutory Accounting Guidance

# EXPOSED STATUTORY ACCOUNTING PRINCIPLE CONCEPTS AND CLARIFICATIONS TO STATUTORY ACCOUNTING GUIDANCE

## Comment Period September 19, 2025

- Exposed the following statutory accounting principle (SAP) concepts and clarifications to statutory accounting guidance for a public comment period ending Oct. 17, except for agenda item 2025-19, which is exposed for a public comment period ending Sept. 19:
  - A. Ref #2025-01: SSAP No. 22—Leases:** Exposed expanded revisions to clarify that sale-leasebacks with restrictions on access to the cash received from the sale do not qualify for sale-leaseback accounting and must be accounted for by the seller using the financing method.
  - B. Ref #2025-20: SSAP No. 26, SSAP No. 21—Other Admitted Assets, SSAP No. 43—Asset-Backed Securities, and Annual Statement Blanks:** Exposed revisions to improve utilization of existing disclosures, clarify guidance, and incorporate consistent locations and frequency for specific debt security disclosures. The edits also propose disclosures for residuals that identify the company's measurement method, whether the company is transitioning from the practical expedient to the allowable earned yield (AEY) method, and for those following the AEY method, information comparable to SSAP No. 43 for impaired securities. The proposed revisions also converge and clarify language across SSAPs and/or remove references that imply quarterly reporting when the disclosure is annually audited only.

# EXPOSED STATUTORY ACCOUNTING PRINCIPLE CONCEPTS AND CLARIFICATIONS TO STATUTORY ACCOUNTING GUIDANCE

Comment Period September 19, 2025

- C. Ref #2025-13: SSAP No. 37—Mortgage Loans:** Exposed revisions to the draft guidance allowing residential mortgage loans in trust to reflect several recommended changes per discussions with industry.
- D. Ref #2025-21: SSAP No. 92—Postretirement Benefits Other Than Pensions and SSAP No. 102—Pensions:** Exposed revisions to clarify that retirement plan assets can be held at net asset value (NAV) and shall be included in the required fair value disclosure.
- E. Ref #2025-18: SSAP No. 101—Income Taxes:** Exposed revisions to adopt, with modification, certain revisions from ASU 2019-12 Simplifying the Accounting for Income Taxes. Exposure also recommends fully incorporating U.S. GAAP guidance previously incorporated by reference.

# EXPOSED STATUTORY ACCOUNTING PRINCIPLE CONCEPTS AND CLARIFICATIONS TO STATUTORY ACCOUNTING GUIDANCE

Comment Period September 19, 2025

## *F. Annual Statement Blanks:*

- **Ref #2025-19: i.** Exposed revisions to incorporate a new disclosure to identify private placement securities in the investment schedules and incorporate an aggregate disclosure that details key investment information by type of security (public and private placement type).
- **Ref #2024-21: ii.** Exposed revisions to eliminate the investment subsidiary concept from the instructions.

Questions?

# OBBBA: Business Tax Updates

# Objectives

- Understand the OBBBA's business-related tax changes.
- Compare old (TCJA) and new provisions.
- Identify planning opportunities to optimize tax outcomes.

# Bonus Depreciation

- **Old Law (TCJA):**
  - Allowed 100% bonus depreciation for qualified property through 2022, phasing down to 40% in 2025, 20% in 2026, and 0% in 2027.
  - Applied to tangible personal property with a recovery period of 20 years or less and certain real estate improvements.
- **New Law (OBBBA):**
  - Permanently restores 100% bonus depreciation for qualified property acquired and placed in service after January 19, 2025.
  - Expands scope to include manufacturing buildings placed in service before January 1, 2031 (Code Section 168(n)).
- **Impact:** Encourages immediate capital investment by allowing full expensing, reducing taxable income in the year of purchase.

# Section 179 – Expensing

- **Old Law (TCJA):**
  - Set the maximum amount of Section 179 property that a taxpayer can expense at \$1 million, reduced the amount by which the cost of \$179 property exceeds \$2.5 million.
- **New Law (OBBBA):**
  - Increases the maximum amount of Section 179 property that a taxpayer can expense to \$2.5 million reduced by the amount by which the cost of qualifying property exceeds \$4 million.
  - Applies to property placed in service in taxable years beginning after December 31, 2024.
- **Impact:** Encourages immediate capital investment by allowing full expensing, reducing taxable income in the year of purchase.

# Accelerated Depreciation Planning Considerations

- Section 179 depreciation cannot create a business loss, whereas bonus depreciation can.
- State treatment of bonus depreciation and Section 179.
- Considerations of debt to acquire certain depreciable assets.
- Considerations of future taxable income when making these decisions.

# Section 163(j) Business Interest Deduction

- **Old Law (TCJA):**
  - Limited business interest deductions to 30% of adjusted taxable income (ATI), initially based on EBITDA (through 2021), then EBIT (2022 onward), making it less generous.
- **New Law (OBBBA):**
  - Permanently reinstates EBITDA-based ATI calculation for tax years beginning after December 31, 2024.
  - Expands deductible interest for floor plan financing.
- **Impact:** Benefits capital-intensive businesses and leveraged businesses by increasing allowable deductions for interest expense.

# Clean Energy Incentives

Several clean energy incentives are being phased out or eliminated, as outlined in the chart below:

Section	Name	Termination Date
<b>25E</b>	Previously owned clean vehicle credit	After September 30, 2025
<b>30D</b>	Clean vehicle credit	After September 30, 2025
<b>45W</b>	Qualified commercial clean vehicle credit	After September 30, 2025
<b>6426(k)</b>	Sustainable aviation fuel credit	After September 30, 2025
<b>25C</b>	Energy-efficient home improvement credit	After December 31, 2025
<b>25D</b>	Residential clean energy credit	After December 31, 2025
<b>168 (e)(3)(B)(vi)</b>	Cost recovery for certain energy property and qualified clean energy facilities, property and technology	After December 31, 2025 (energy property): after date of enactment (qualified clean energy facilities, property and technology)
<b>179D</b>	Energy-efficient commercial buildings deduction	For property, the construction of which begins after June 30, 2026
<b>45L</b>	New energy-efficient home credit	After June 30, 2026
<b>30C</b>	Alternative fuel vehicle refueling credit	After June 30, 2026
<b>45Y</b>	Clean electricity production credit	After December 31, 2027 (terminated for wind and solar facilities placed in service)
<b>48E</b>	Clean electricity investment credit	After December 31, 2027 (terminated for wind and solar facilities placed in service)
<b>45V</b>	Clean hydrogen production credit	After January 1, 2028

# Employer-Provided Childcare Credit

- **Old Law (TCJA):**
  - Allowed an employer-provided childcare credit of 25% of qualified childcare facility costs, with a maximum annual credit of \$150,000.
- **New Law (OBBBA):**
  - Increases the credit to 40%, with a maximum annual credit of \$500,000 (50% and \$600,000 for eligible small businesses).

# Paid Family and Medical Leave Credit

- **Old Law (TCJA):**
  - Allowed an employer credit of between 12.5% and 25% of wages paid to employees on family and medical leave (FML) through 2025.
- **New Law (OBBBA):**
  - Credit made permanent and expanded to include an option to calculate the credit amount using a percentage of premiums paid for FML insurance instead of wages.

# OBBBA – Other Provisions

- Additional charitable contribution limitation for C-Corporations.
- **Form 1099-K reporting:** reverts to \$20,000/200 transaction threshold.
- **Form 1099-MISC and NEC reporting:** threshold increase from \$600 to \$2,000 for payments made after December 31, 2025 (annual inflation adjustments starting in 2027).
- **Employee Retention Credit:** retroactively invalidates claims filed after January 31, 2024, for the third and fourth quarters of 2021.

# SECTION 174A – Domestic R&D Deductibility

- Allows full deduction of domestic R&D costs effective January 1, 2025, as businesses will no longer be required to capitalize and amortize R&D expenses.
- Applies only to domestic expenditures, as foreign R&E remains subject to 15-year amortization.
- Optional 60-month (5-year) amortization available.
- The legislation also allows for flexibility in deducting any unamortized Section 174 costs, either in full in 2025 or spread over 2025 – 2026.
- Allows retroactive relief for small businesses.

# Recovery of Previously Capitalized R&D

- Allows retroactive relief for small businesses.
- Small businesses that average gross receipts of \$31 million or less can amend tax returns for 2022 – 2024 to claim full immediate deductions for domestic R&D and potentially recover previously deferred expenses.
- Deduct remaining unamortized domestic R&D in 2025 or over two years.
- Provides flexibility for treatment of R&D Credits and estimated payments.

# IRC Section 174

## Similarities and Differences in IRC Section 174 R&D Expense and IRC Section 41 R&D Credit

- **PLEASE NOTE:**
  - All IRC Section 41 R&D credit expenses must be IRC Section 174 expenses.
  - Not All IRC Section 174 expenses are IRC Section 41 R&D expenses.
- Section 174 has a more expansive definition:
  - Office and overhead costs
  - Employee burden (taxes/benefits/insurance)
  - Patent and patent pursuit
  - Utilities
  - Contractor research: 100% vs 65%

# What Costs Qualify for the Credit?

- Wages of employees working directly on the innovation, along with supervisors.
- Contract research expenses, computer leasing.
- Supplies, if expended in the process of R&D activities.

 <b>WAGES</b>	 <b>SUPPLIES</b>	 <b>COMPUTER LEASING</b>	 <b>CONTRACT RESEARCH</b>
<ul style="list-style-type: none"><li>• Performing qualified research</li><li>• Technical supervision of qualified research</li><li>• Technical support of qualified research</li></ul>	<ul style="list-style-type: none"><li>• Tangible personal property utilized during the process of qualified research</li><li>• Cannot be subject to depreciation</li></ul>	<ul style="list-style-type: none"><li>• Owned and operated by someone other than the taxpayer</li><li>• Cloud computing costs most common</li></ul>	<ul style="list-style-type: none"><li>• Any amount paid or incurred by the taxpayer to any person/company other than employees for qualified research</li><li>• Includable up to 65% (75% for research consortia)</li></ul>

# Qualifying for the Credit

To qualify for the R&D Tax Credit, a company's innovative product, process, technique, formula or software does not need to be new to the world or new to the industry; it simply needs to be new to the business. Additionally, the company must also be able to demonstrate that activities satisfy a **four-part test** from the IRS:

1. **Permitted Purpose:** The research creates a new or improved product or process that results in increased performance, function, reliability or quality.
2. **Technological in Nature:** The process of experimentation relies on one or more hard sciences, such as engineering, physics, chemistry, biology or computer science.
3. **Elimination of uncertainty:** The research activity has attempted to eliminate uncertainty about the development or improvement of a product or process.
4. **Process of experimentation:** The company has evaluated alternatives for achieving the desired result and can demonstrate having done so through modeling, simulation, systematic trial and error or other methods.

# R&D QUALIFICATION CRITERIA: FOUR PART TEST

① §41(d)(l)(B)(ii)

## PERMITTED PURPOSE

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- New or improved product, process, technique, formula, invention, or computer software
- The purpose of the research must relate to a new or improved function, performance, reliability, or quality

② §41(d)(l)(B)(i)

## TECHNOLOGICAL IN NATURE

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The activity is undertaken to discover information that is technological in nature

③ §41(d)(l)(A)

## THE UNCERTAINTY TEST

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The activity must involve technical uncertainty or risk related to:

- Capability (if it can be done), or
- Method (how it can be done), or
- The Appropriate Design

④ §41(d)(l)(C)

## PROCESS OF EXPERIMENTATION

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The qualified activity must involve the evaluation of one or more alternatives where the capability and method of achieving the result is uncertain as the outset

# Conforming Changes to Section 41 & 280C

- The OBBBA modified several key provisions related to Sections 41 and 280C(c). Taxpayers claiming the gross research credit must reduce their domestic R&E expenditures by the amount of the gross research credit.
- Alternatively, taxpayers may elect to claim the reduced research credit on a timely filed return (including extensions). These options are consistent with pre-TCJA rules under Section 280C(c).
- Section 41(d) also was amended and now requires that expenditures be treated as domestic R&D expenditures under Section 174A to be qualified research expenditures eligible for the research credit.

# Accounting Method Changes

- IRS guidance is needed on how to make these elections.
- Applying Section 174A is treated as taxpayer-initiated method change, implemented on a cut-off basis for years after December 31, 2024.
- No Section 481(a) adjustment required (unless **short taxable years** beginning after 12/31/24 but ending **before July 4, 2025**).
- Aligns with pre-TCJA IRS treatment of R&D costs.

# Summary and Next Steps

- Immediate expensing of domestic R&D (Section 174A).
- Foreign R&D still amortized.
- Retroactive relief for small businesses.
- Businesses with average gross receipts of \$31 million or less can amend tax returns for 2022–2024 to claim full immediate deductions for domestic R&D and potentially recover previously deferred expenses.
- Review accounting methods and evaluate amended return potential.
- **Monitoring and will share IRS guidance on how to make these elections.**

# Next Steps – cont'd

## Federal Filing Requirements

- **More Documentation, More Complexity** – The IRS now requires additional reporting on qualified expenses, research activities and business components right from the start.
- **Stricter Wage Classification** – Businesses must separate direct R&D labor, supervisory roles and support staff—meaning better tracking systems are a must.
- **Increased IRS Scrutiny** – The IRS is tightening compliance with these changes. Mistakes could lead to claim delays or lost credits.
- **New Sections (Including Section G)** – Optional for 2024, but mandatory in 2025—businesses need to act now to stay compliant.

# OBBBA – What's Next?

- This is a high-level summary of the business provisions of the OBBBA. In the near term, we expect future regulations and guidance to be issued with respect to this bill, which will help to define and clarify the rules surrounding the implementation of some of these key provisions.
- **On August 7<sup>th</sup>, the IRS announced:**
  - Forms W-2, 1099, 941 and other payroll return forms will remain unchanged for the 2025 tax year.
  - Federal income tax withholding tables will not be updated for OBBBA provisions for the 2025 tax year.
  - Employers and payroll providers to continue using current procedures for reporting and withholding.
- How will states adapt? Will they adopt or decouple from new rules?

# Questions?

# THANK YOU!



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