

The One Big Beautiful Bill Act: Key implications for professional employer organizations

By Jonathan Meer, Esq., and Angela M. Sekerka, Esq., Wilson Elser

NOVEMBER 20, 2025

The implications of the One Big Beautiful Bill Act (OBBBA or the Act) on employers, passed by Congress and signed into law on July 4, 2025, cannot be overstated. The multiple legislative initiatives in the Act impacting employment include tax credits, workforce development incentives, and provisions related to immigration.

The Professional Employer Organization (PEO)'s role in handling many human resource (HR) tasks addressing employee issues, including tax filings, payroll, and benefit administration, has grown in importance in recent years as organizations have outsourced these tasks to them.

PEOs that can assist their clients with I-9 compliance and enforcement of measures such as E-Verify with employment authorization documents, will be well-positioned to weather the storm of increased audit risk from ICE.

Most states require PEOs to be registered and licensed, and to provide written notice to each covered employee of the general nature of the co-employment relationship between the PEO, the employer client, and the covered employee.

PEOs are often considered to be in a co-employment relationship with the organization involving those tasks outsourced to them, increasing their obligations and responsibilities to the employees they oversee, which, in turn, increases their potential for liability.

As a result, employers will need to frequently update their payroll and human resources systems to account for changing tax rates and benefits thresholds, making PEOs even more valuable to the employers that use them as they navigate this new landscape.

In addition, employers will have to consider how eligibility and reporting requirements for new tax credits may increase overhead. The OBBBA brings certain tax deductions and sunset clauses into the forefront for employers to address.

Further, given that the current administration has made enforcement of immigration laws a priority, PEOs that can assist their clients with I-9 compliance and enforcement of measures such as E-Verify with employment authorization documents, will be well-positioned to weather the storm of increased audit risk from U.S. Immigration and Customs Enforcement (ICE).

With the changes in laws and regulations that businesses deal with only growing, the role of the PEO will likely continue to expand as well.

The OBBBA: General implications

One of the legislative initiatives included in the OBBBA is the Freedom to Invest in Tomorrow's Workforce Act, which provides employers with tax incentives to invest in employee training. PEOs can assist employers in capitalizing on this by offering their clients more learning and development programs for their employees.

Receipt of these incentives, however, is subject to performance-based conditions. PEOs may assist their clients in obtaining these incentives by documenting and tracking employees' performance, progress, and certifications. These PEOs, however, will likely be asked to closely monitor the return on investment generated by such training programs put in place to qualify for the new tax credits.

PEOs can also help their clients take advantage of and ensure compliance with new paid family and medical leave tax credits included in the OBBBA, as well as the OBBBA's expansion of Opportunity Zones in underserved areas.

The Act also includes tax cuts for individuals and small businesses earning less than \$500,000, providing PEOs with the opportunity to offer tax planning and payroll system updates, as well as training for staff to ensure their clients' compliance.

PEOs should also ensure that their cybersecurity protocols are up to date, which will be particularly important in light of increased data sharing as a result of reporting for tax and immigration compliance purposes. The OBBBA seeks increased scrutiny of licensing agreements that could give prohibited foreign entities effective command or access to critical Artificial Intelligence and technology assets of US companies.

The temporary provisions contained in the OBBBA, such as certain tax deductions and sunset clauses like the State and Local Tax (SALT) deductions and business investment deductions, may create uncertainty for employers in the administration of payroll and benefits. PEOs should be poised to help their clients navigate this uncertainty.

OBBBA's new standards for tax credit and sharing training data have the potential for greater reliance by employers on PEOs, but they also increase the potential risks for PEOs when assisting their clients with compliance.

The OBBBA: Implications for immigration policies

Another aspect of the OBBBA that has received attention is the increased emphasis on immigration control and the related funding. The OBBBA's allocation of over \$170 billion to the enforcement of immigration laws makes this clear and has significant implications for PEOs.

Employers are required to verify the identity and employment authorization status of all new employees pursuant to the Immigration Reform and Control Act of 1986 (IRCA), which is done through Form I-9.

All U.S. employers are required to complete an I-9 form for every individual hired in the country, regardless of their citizenship status. Employers are also required to retain other related documents, including documents concerning procedures for creating and retaining the I-9s.

Employers who fail to comply with I-9 requirements may face civil penalties of \$281 to \$2,789 for each incorrect I-9.¹ In addition, employers may be assessed civil penalties from \$698 to \$5,579 for each individual hired who is not authorized to work in the U.S.²

The amount of the fine assessed depends on factors including: (1) the size of the business; (2) the good faith of the employer and whether the conduct was intentional; (3) the seriousness of the violation; (4) involvement of unauthorized workers; and (5) the employer's history of previous violations.³

While employers usually oversee the completion of I-9s by their employees, the PEOs they work with then generally receive the certification and documents collected by the employer and, in Section 2 of the I-9, must affirm under penalty of perjury that they examined the documents, the documents appear genuine and related to the employee, and, to the best of their knowledge, are authorized to work in the United States.

PEOs may be sanctioned for providing false I-9 attestations,⁴ a practice that will likely increase in light of the changes wrought

by the OBBBA. As such, it will be critical for PEOs to ensure that they review the original identity and work authorization documents and complete the Section 2 certification.

The OBBBA also increases fees related to visas, work permits, and asylum applications. Employers should be aware that they may face delays or other issues obtaining work permits for foreign-born employees, resulting in higher costs for PEOs in managing their diverse workforces.

OBBBA's new standards for tax credit and sharing training data have the potential for greater reliance by employers on PEOs, but they also increase the potential risks for PEOs when assisting their clients with compliance.

Even prior to the passage of the OBBBA, the current Administration has made clear that enforcement of immigration laws is a priority. ICE advised that in 2025, it issued I-9 notices of inspections to over 5,200 businesses, advising of an upcoming audit of hiring records to determine compliance with federal law (<https://bit.ly/47RN064>).

As such, employers should be cognizant of the need to comply with workplace immigration laws, as PEOs and their clients will face heightened risk of ICE audits. PEOs should therefore ensure that their clients maintain proper I-9 documentation for all employees, comply with visa-related and E-Verify usage requirements, and consider policy revisions and their effect on undocumented workers.

In addition, PEOs should partner with their employer clients to prepare for increased audits, site visits, and labor market disruptions.

The OBBBA and employment authorization documents

PEOs should also be aware of the OBBBA's provisions related to Employment Authorization Documents (EADs), including the imposition of new fees for applications and renewals and the end of the automatic extension of employment authorization for certain EAD categories. Indeed, on October 30, 2025, the U.S. Department of Homeland Security (DHS) published an interim final rule ending such automatic extensions.

Prior to this rule change, which the current Administration has stated is necessary due to security concerns, U.S. Citizenship and Immigration Services (USCIS) automatically extended certain EADs based on timely filing for renewal authorization.

These automatic extensions, which under the Obama Administration were up to 180 days past the EAD's expiration date, began with certain F-1 Visa holders completing the Science, Technology, Engineering, and Mathematics ("STEM") Optional Practical Training program, eventually expanding to other categories such as H-4 spouses, Adjustment of Status applicants, refugees and asylees, self-petitioners for benefits under the Violence Against Women Act (VAWA), and Temporary Protected Status (TPS) holder.

Pursuant to this interim rule, most foreign nationals filing EAD renewal applications will no longer receive automatic extensions.

The PEOs need to understand that when they accept greater power to handle administrative employee tasks, it comes with greater responsibility.

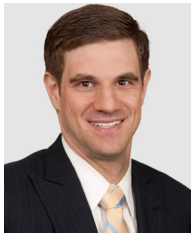
PEOs will be expected to assist the employers they partner with in dealing with the implications of the October 30, 2025 expiration of these automatic extensions, including (1) the need to monitor EAD processing times to prevent and prepare for gaps in employees' work authorizations; (2) encouraging employees to file for renewal of their EADs as early as possible; and (3) revising training and internal I-9 procedures to ensure affected employees are aware of the changes to rules concerning EADs.

This interim rule also has exceptions that PEOs will need to be aware of.

Implications for PEOs

PEOs should be aware of the myriad implications of the passage of the OBBBA and be ready to assist their clients in navigating the new landscape of tax credits, changing tax rates, and benefit thresholds.

About the authors



Jonathan Meer (L) is a partner at **Wilson Elser** who focuses on coverage for directors and officers, professional errors and omissions, and employment practices. He is based in the firm's New York office and can be reached at Jonathan.Meer@wilsonelser.com.
Angela M. Sekerka (R) is of counsel at the firm and specializes in employment and housing law. She is based in New York and Chicago and can be reached at Angela.Sekerka@wilsonelser.com

Further, they should be prepared to assist their clients with avoidance of I-9 audits and ICE visits by proactively ensuring that employers closely monitor compliance with Form I-9 requirements, such as by proper filing and retention of I-9 forms, and monitoring of employees' EAD status and processing times.

PEOs are also encouraged to consult with employment counsel to ensure that they are taking advantage of the opportunities created by the passage of the OBBBA, poised to confront the challenges it poses, and stay current with evolving compliance requirements.

The passage of the OBBBA is another example of the changing landscape employers are facing. Organizations' reliance on PEOs has only increased in recent years. As HR tasks continue to be outsourced to PEOs, the potential risks for PEOs in their co-employment relationships with their clients expand as well.

State laws and licensing requirements for PEOs are evolving as well, including the potential for additional reporting requirements and the establishment of model standards for PEOs.

If a PEO is deemed a co-employer, the failure to meet a wage or salary obligation through the fault of one obligor renders all the obligors liable for the resulting damages, not only in terms of the unpaid wage but the penalty as well.

The changes to the employee retention credit, as raised by OBBBA, will likely lead to further requests from employers to their PEOs for information on which documents and data have been submitted to the state and federal governments. The PEOs need to understand that when they accept greater power to handle administrative employee tasks, it comes with greater responsibility.

Notes:

¹ 8 CFR 274a. 10(b)(2)

² CFR 274a. 10(b)(1)(ii)(A)

³ 8 U.S.C. § 1324a(e)(5) and 8 C.F.R. § 274a.10.

⁴ *Employer Solutions Staffing Group v. OCHAO*, No. 15-60173, 833 F.3d 480 (5th Cir. August 11, 2016).

This article was first published on Westlaw Today on November 20, 2025.