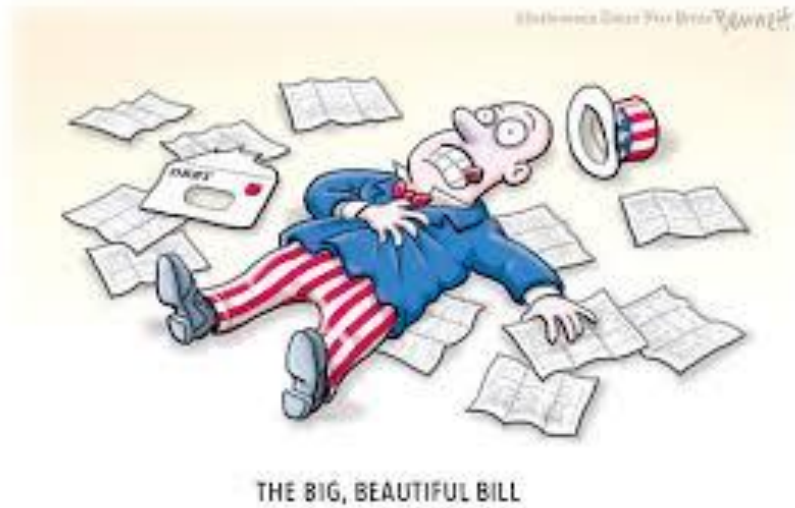


Garden State CLE Presents:

**New Year's Accounting Advice for
New Jersey Lawyers**



Instructors

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Lesson Plan

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PART I

New Regulations for Independent Contractors

The ABC Test

a) Significant Case Law

Carpet Remnant Warehouse vs. NJ Dept of Labor, 125 N.J. 567(1991)

East Bay Drywall, LLC, vs. Department of Labor, 251 N.J. 477(2022)
(Explaining the “C” prong of the test)

b) Basic Definition

1) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact;

2) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

3) Such individual is customarily engaged in an independently established trade, occupation, profession, or business.

c) Discussion

On April 3, the New Jersey Department of Labor and Workforce Development proposed new rules under the New Jersey Administrative Code (“N.J.A.C.”) Section 12:11, which are designed to clarify the application of the “ABC test.” The ABC test is a legal standard used to determine whether a worker is an independent contractor or an

employee. Under the proposed rules, the burden of proof lies with the employer to demonstrate that a worker meets all three prongs of the test:

Prong A (freedom from control);

Prong B (work outside the usual course of business); and

Prong C (engagement in an independently established trade).

Thereafter, on May 5, the proposed rules were published, triggering a 60-day review and comment period. This proposal is significant for businesses and independent contractors as it seeks to codify the department's interpretation of the statutory ABC test, which is crucial for compliance with various New Jersey laws, including the Unemployment Compensation Law, the Wage Payment Law, and the Earned Sick Leave Law.

d) Prongs of the ABC Test

1) Prong A – Control: To satisfy Prong A, the employer must show that the worker is free from control or direction in the performance of their work. Factors considered include whether the worker sets their own hours, uses their own tools, is free to work for other clients, and notably that the employer "has not reserved the right to control the ... [worker's] performance."

2) Prong B – Usual Course of Business: Prong B requires that the worker's services are either outside the usual course of the employer's business or performed outside of all the employer's places of business. The proposal provides examples, such as a musician hired by a restaurant, which would typically be outside the usual course of business.

3) Prong C – Independently Established Business: For Prong C, the worker must be engaged in an independently established trade, occupation, or business. This means the business must be viable and able to exist independently of the

relationship with the employer. Factors include the number of clients and the worker's investment in their business.

e) Potential Impact on Businesses and Independent Contractors

The proposed rules are expected to have a positive impact by reducing confusion regarding worker classification. Proper classification is crucial as it affects eligibility for benefits such as unemployment compensation and compliance with wage laws. Misclassification can lead to significant financial penalties for businesses.

f) Critical Considerations for Compliance

1) The Determination is in the Details: Employers must be prepared to meet their burden of proof and demonstrate compliance with all three prongs of the ABC test. This involves maintaining detailed records and documentation to support the classification of workers as independent contractors.

2) Check Foundational Documents: Businesses should review their contracts with independent contractors to ensure they do not inadvertently suggest an employment relationship. The substance of the relationship, rather than the form, is critical under the ABC test.

3) Understanding these cases can provide valuable insights into the application of the ABC test.

g) ABC Test Conclusion

The proposed rules under N.J.A.C. 12:11 represent a significant development in the classification of independent contractors in New Jersey. Businesses and independent contractors should familiarize themselves with these changes to ensure compliance and avoid potential legal and financial repercussions.

[by Richard Scharlat, ClarkHill.com]

PART II
Tax Implications in 2026 From the
One Big Beautiful Bill (OBBB)

a) Mortgage Interest and State and Local Taxes (SALT)

The mortgage interest deduction limit is now permanent, and Private Mortgage Insurance (PMI) will be treated as deductible mortgage interest beginning in 2026.

OBBB raises the current cap on state and local tax (SALT) deductions from \$10,000 to \$40,000 for the 2025 through 2029 tax years. However, this enhanced deduction begins to phase out when a taxpayer's income hits \$500,000. And those earning more than \$600,000 will find their SALT deductions capped at \$10,000. After 2029, the SALT deduction amount for all taxpayers will revert to the old \$10,000 limit. Until then, eligible taxpayers may feel some relief when they file their federal tax returns, starting in 2026.

b) Additional Senior Deduction

Effective for 2025 through 2028, individuals who are age 65 and older may claim an additional deduction of \$6,000. This new deduction is in addition to the current additional standard deduction for seniors under existing law.

1) The \$6,000 senior deduction is per eligible individual (or \$12,000 total for a married couple where both spouses qualify).

2) Deduction phases out for taxpayers with modified adjusted gross income over \$75,000 (\$150,000 for joint filers).

Qualifying taxpayers: The taxpayer must attain age 65 on or before the last day of the taxable year.

c) No Tax on Tips

Effective for 2025 through 2028, employees and self-employed individuals may deduct qualified tips received in occupations listed by the IRS as customarily and regularly receiving tips on or before December 31, 2024, and that are reported on a Form W-2, Form 1099, or other specified statement furnished to the individual or reported directly by the individual on Form 4137.

- 1) “Qualified tips” are voluntary cash or charged tips received from customers or through tip sharing;
- 2) Maximum annual deduction is \$25,000; for self-employed, deduction may not exceed individual’s net income (without regard to this deduction) from the trade or business in which the tips were earned; and
- 3) Deduction phases out for taxpayers with modified adjusted gross income over \$150,000 (\$300,000 for joint filers).

d) No tax on overtime

Effective for 2025 through 2028, individuals who receive qualified overtime compensation may deduct the pay that exceeds their regular rate of pay (such as the “half” portion of “time-and-a-half” compensation) that is required by the Fair Labor Standards Act (FLSA) and reported on a Form W-2, Form 1099, or other specified statement furnished to the individual.

- 1) Maximum annual deduction is \$12,500 (\$25,000 for joint filers).

2) Deduction phases out for taxpayers with modified adjusted gross income over \$150,000 (\$300,000 for joint filers).

Taxpayer eligibility: Deduction is available for both itemizing and non-itemizing taxpayers.

e) Interest Deduction on New Car Loans

Effective for 2025 through 2028, individuals may deduct interest paid on a loan used to purchase a qualified vehicle, provided the vehicle is purchased for personal use and meets other eligibility criteria. (Lease payments do not qualify.)

1) Maximum annual deduction is \$10,000.

2) Deduction phases out for taxpayers with modified adjusted gross income over \$100,000 (\$200,000 for joint filers).

Qualified Interest: To qualify for the deduction, the interest must be paid on a loan that is:

1) Originated after December 31, 2024;

2) Used to purchase a vehicle originally used by the taxpayer (used vehicles do not qualify);

3) For a personal use vehicle (not for business or commercial use); and

4) Secured by a lien on the vehicle.

A qualified vehicle is a car, minivan, van, SUV, pick-up truck, or motorcycle, with a gross vehicle weight rating of less than 14,000 pounds, and that has undergone final assembly in the United States.

To determine if a vehicle had final assembly in the U.S., check one of these:

- 1) The information label attached to the vehicle on a dealer's premises;
- 2) The vehicle identification number (VIN); and
- 3) The National Highway Traffic Safety Administration (NHTSA) VIN Decoder.

Taxpayer eligibility: Deduction is available for both itemizing and non-itemizing taxpayers. The taxpayer must include the vehicle identification number (VIN) of the vehicle on the tax return for any year when the deduction is claimed.

Reporting: Lenders or other recipients of qualified interest must file information returns with the IRS and furnish statements to taxpayers showing the total amount of interest received during the taxable year.

Guidance: The IRS will provide transition relief for tax year 2025 for interest recipients subject to the new reporting requirements.

f) Social Security for seniors

With the new tax law, Social Security income continues to be taxable, but an additional deduction for seniors may help offset what is owed. Under the new law, taxpayers age 65 or older—and their spouses, if filing jointly—can each claim a \$6,000 deduction for tax years 2025–2028.

Phase out – up to 50 percent of benefits can be taxed if combined income is \$25,000 to \$34,000 for singles, or \$32,000 to \$44,000 for couples filing jointly. Up to 85 percent of benefits can be taxed if combined income exceeds \$34,000 for singles or \$44,000 for couples filing jointly.

g) Bonus Depreciation (January 19th, 2025)

The One Big Beautiful Bill reinstates 100% bonus depreciation for assets acquired after January 19, 2025. The definition of qualifying property is unchanged, and the bill does not apply retroactively to asset purchases in 2023 or 2024.

This means that if your business had a contract to acquire property prior to January 19, even if the actual acquisition happens afterwards, the property will not qualify for the 100% bonus. The property will qualify for bonus depreciation, if eligible, based on the prior law.

Examples for future purchases:

Computers

Furniture

Equipment

Leasehold improvements (whether owner or tenant)

h) Estate and Gift Tax Lifetime Exemptions

OBBBA raises the lifetime exemption for estate, gift, and generation-skipping transfer (GST) taxes to \$15 million per decedent, indexed for inflation. This exemption had been scheduled to decrease from the current \$13.9 million to \$7.1 million in 2026 - a significant concern for affluent families.

Further, the new \$15-million exemption amount remains portable. So, starting next year, couples will have a combined \$30-million exemption. Taxpayers and families concerned about how estate taxes may impact their heirs will welcome this news - and the clarity it provides on the future state of gifting strategies. It will likely lead to more confident planning for legacy and estate goals.

i) Income tax brackets: Under the new law, the current income tax brackets have been made permanent. Effective in the 2025 tax year, income tax brackets are 10%, 12%, 22%, 24%, 32%, 35%, and 37%.

j) New standard deduction amounts: Beginning with the 2025 tax year, the standard deduction, which was raised by the TCJA, increases further by \$1,000 for single filers and \$2,000 for married couples filing jointly. This brings the deduction to \$15,750 for single filers and \$31,500 for joint filers, with future amounts indexed for inflation.

k) Charitable Contributions

1) Above-the-line charitable deductions for non-itemizers.

Beginning in the 2026 tax year, a reinstated deduction allows non-itemizers to deduct cash donations to charity—up to \$1,000 for single filers or \$2,000 for married couples filing jointly. This provision is not indexed for future inflation, and some types of donations are ineligible for the deduction, including to donor-advised funds or private non-operating foundations.

Implication: Since the TCJA increased the standard deduction, only about 10% of households have itemized deductions, making them ineligible for charitable giving tax deductions. With the introduction of this provision, all households are now eligible to receive a tax deduction for qualified charitable contributions, potentially increasing participation in giving. A similar provision during the COVID-19 pandemic allowed a \$300 deduction for charitable giving under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Approximately 90 million taxpayers claimed it in 2020 - 2021.

New limits to deductions for itemizers in the top tax bracket.

The new legislation caps the tax benefits of itemized charitable deductions at 35%, even for those in the 37% marginal tax bracket. In other words, these high-income filers donating \$1,000 would receive a

\$350 deduction instead of the current \$370. This change goes into effect in the 2026 tax year.

Implication: Donors in higher tax brackets who are considering a significant philanthropic gift may want to think about accelerating their gift to 2025 to maximize their deduction under the current marginal rate before the new cap goes into effect.

New floor on deductions for itemizers and corporations Effective in the 2026 tax year, itemizers who make charitable contributions will only be able to claim a tax deduction to the extent that their qualified contributions exceed 0.5% of their adjusted gross income (AGI). For example, a couple with an AGI of \$300,000 could only deduct charitable donations in excess of \$1,500. Similarly, corporations will only be entitled to deduct charitable contributions to qualified charities that exceed 1% of their taxable income. Implication: High-income individuals who itemize deductions should carefully consider the timing and amounts of their giving, and the strategies to maximize their deduction. For example, a bunching strategy or an approach of making larger gifts with less frequency can be more effective under the new rules. Corporations may want to take steps to proactively manage (and potentially increase) their giving to ensure they exceed the 1% threshold.