Chapter 12: Planning for the Sunset of the TCJA

Note. Corrections were made to this workbook through January of 2025. No subsequent modifications were made. For clarification about terms used throughout this chapter, see the **Acronyms and Abbreviations** section following the index.

For your convenience, in-text website links are also provided as short URLs. Anywhere you see **uofi.tax/xxx**, the link points to the address immediately following in brackets.

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About the Author

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The passage of the Tax Cuts and Jobs Act of 2017[1] (TCJA) brought widespread changes to the tax code, impacting tax provisions for individuals, businesses, and estates. Some of the TCJA changes are permanent, while others are set to expire **after** December 31, **2025.** Newer tax preparers may not have experience with pre-TCJA tax requirements. This chapter will help introduce these concepts to those preparers while also refamiliarizing experienced practitioners with these topics. This chapter will identify key expiring provisions, the impact of the potential expiration, and possible planning opportunities arising from the sunsetting provisions of the TCJA. The appendix contains permanent provisions that, although not impacted by the expiration of the TCJA, may still influence planning decisions.

Note. Unless otherwise noted, the following material is written with the assumption that Congress will not extend or alter the expiring TCJA provisions. Practitioners should consider the possibility some provisions may be extended and communicate that possibility when proposing or discussing tax planning strategies with their clients.

POTENTIAL IMPACT ON INDIVIDUAL TAX RETURNS

The TCJA contains provisions significantly impacting individual taxpayers and their income tax returns. The focus of the following discussion is a selection of **expiring provisions** and potential tax planning opportunities for the 2024 and 2025 tax years.

STANDARD AND ITEMIZED DEDUCTIONS

Taxpayers are allowed to deduct from their adjusted gross income (AGI) either a standard deduction[2] or the total of the allowable itemized expenses they incurred during the tax year.[3] Along with the qualified business income deduction (QBID), discussed later, the standard deduction and itemized deductions are key subtractions to arrive at taxable income and are consequently a focal point in tax planning discussions to help taxpayers achieve more favorable income tax outcomes. A taxpayer's filing status determines the amount of deduction a taxpayer claims, which includes filing as single, married filing separately (MFS), head of household (HoH), married filing jointly (MFJ), and qualifying surviving spouse (QSS).

Rules Under the TCJA

Among the more favorable changes made by the TCJA was the substantial increase in the amount of standard deduction available to taxpayers. Because these amounts are indexed for inflation, the deduction has grown considerably since the enactment of the TCJA as shown in the following table.

	Pre-TCJA [4]	As Amended [5]	As Adjusted for Inflation for 2024 [6]
Single/MFS	$ 6,350	$12,000	$14,600
HoH	9,350	18,000	21,900
MFJ/QSS	12,700	24,000	29,200

1. *Tax Cuts and Jobs Act,* PL 115-97.
2. IRC §63(c).
3. IRC §63(d).
4. Rev. Proc. 2016-55, 2016-45 IRB 707.
5. IRC §63(c)(7)(A).
6. Rev. Proc. 2023-34, 2023-48 IRB 1287.

The TCJA also suspended miscellaneous itemized deductions[7] and imposed a cap on the deduction for state and local taxes (SALT).[8] The SALT cap is $10,000 for all filers except for MFS taxpayers whose deduction is capped at $5,000. As an offset to these restrictions, the TCJA suspended the overall limitation on itemized deductions for taxpayers with higher AGIs, commonly referred to as the Pease limitation.[9] The Pease limitation reduces itemized deductions by the lesser of the following.[10]

- 3% of the amount of AGI that exceeds the threshold, or
- 80% of the total amount of itemized deductions that would otherwise be allowable.

Certain deductions are not subject to the Pease limitation. These include the following.[11]

- Medical and dental expenses
- Investment interest
- Casualty and theft losses
- Gambling losses

In calculating the reduction of itemized deductions, all other limitations are applied first (e.g., the 2% threshold for miscellaneous itemized deductions and the AGI threshold for medical expenses). The Pease limitation is then applied to the adjusted amount.[12]

Rules When the TCJA Expires

Unless modified by subsequent legislation, for 2026 the standard deduction will significantly decrease, reverting back to pre-TCJA levels. The following table shows the anticipated standard deductions after inflation adjustments for 2026.

	Pre-TCJA [13]	As Adjusted for Inflation for 2026
Single/MFS	$ 6,350	$ 8,300 [14]
HoH	9,350	12,300 [15]
MFJ/QSS	12,700	16,600 [16]

Miscellaneous itemized deductions will be allowed, and taxpayers will not be subject to the cap on SALT deductions.

7. IRC §67(g).
8. IRC §164(b)(6)(B).
9. IRC §68.
10. IRC §68(a).
11. IRC §68(c).
12. IRC §68(d).
13. Rev. Proc. 2016-55, 2016-45 IRB 707.
14. *Major tax changes in 2026*. Dec. 12, 2023. Cato Institute. [www.cato.org/sites/cato.org/files/2023-12/print-copy_amichel_2026-tax-changes_final.pdf] Accessed on Apr. 25, 2024.
15. IRC §67(b) as a percentage of §67(c) multiplied by the estimated inflated amount by the Cato Institute for Single/MFS and MFJ/QSS filers in 2026, rounded to nearest $100.
16. *Major tax changes in 2026*. Dec. 12, 2023. Cato Institute. [www.cato.org/sites/cato.org/files/2023-12/print-copy_amichel_2026-tax-changes_final.pdf] Accessed on Apr. 25, 2024.

Individuals whose AGI exceeds the applicable thresholds will have to reduce their itemized deductions by the lesser of 3% of the excess or 80% of their total itemized deductions.[17] The thresholds will be indexed for inflation. The unadjusted and estimated 2026 thresholds follow.

	Unadjusted [18]	Adjusted for Inflation (Estimated) for 2026 [19]
Single	$250,000	$341,700
MFS	150,000	205,050
HoH	275,000	375,900
MFJ/QSS	300,000	410,100

The following example approximates a Pease limitation in 2026.

Example 1. Ted and Robin will file a joint tax return for 2026. Their AGI will be $500,000, and their itemized deductions before any limitations will total $89,250, which consists entirely of charitable contributions.

Ted and Robin's itemized deductions will be limited for regular tax purposes because their AGI will exceed the 2026 estimated threshold limitation of $410,100. The limitation is computed based on how the Pease limitation worked prior to the enactment of the TCJA.

Itemized deductions		$89,250
AGI	$500,000	
Less: threshold limitation	410,100	
AGI above threshold	$ 89,900	
	× 3%	
Reduction in itemized deductions (Pease Limitation)	$ 2,697	(2,697)
Allowed itemized deductions		$86,553

Planning Opportunities

After the enactment of the TCJA, the number of taxpayers taking the standard deduction significantly increased, resulting in fewer taxpayers itemizing deductions on their income tax returns.[20] After the expiration of the TCJA, more taxpayers may benefit from itemizing their deductions instead of claiming the standard deduction. Consequently, it may be beneficial for taxpayers to postpone payments of 2024 and 2025 deductions until 2026 to benefit from itemizing them in 2026. For example, taxpayers may consider delaying making large charitable contributions until 2026 to receive the benefit of an itemized deduction. Certain medical deductions may also be considered when planning on making such payments.

17. IRC §68(a).

18. IRC §68(b).

19. Rev. Proc. 2015-53, 2015-44 IRB 615; *Major tax changes in 2026*. Dec. 12, 2023. Cato Institute. [www.cato.org/sites/cato.org/files/2023-12/print-copy_amichel_2026-tax-changes_final.pdf] Accessed on Jun. 27, 2024; Estimated inflation by comparing the 2016 standard deductions for each filing status and the personal exemption with the 2026 estimated standard deductions and personal exemption estimated by the Cato Institute and multiplying the 2016 applicable thresholds by the increased percentage.

20. IRS Pub. 1304, *Individual Income Tax Returns Complete Report* (Rev. 09-2020), p. 22 (2018).

Example 2. Kurt is unmarried with a single Form W-2, *Wage and Tax Statement*. He donates $10,000 a year to his synagogue, but he has no other itemizable deductions. In 2024 and 2025, Kurt claims the standard deduction. He receives no tax benefits from his contributions. In 2026, his annual $10,000 charitable donation will exceed the estimated $8,300 standard allowance, so he will itemize. If he postpones his 2025 $10,000 donation until the following year, thereby making total contributions of $0 in 2025 and $20,000 in 2026, he may take advantage of both the standard deduction in 2025 and the itemized contribution in 2026.

Discussion: What are some reasons Kurt should not double-up on contributions every other year? Are there other considerations he should take into account when utilizing this strategy? ________________________

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Discussion: What are some other strategies Kurt should consider regarding the standard and itemized deduction changes occurring in 2024, 2025, and 2026 as the TCJA sunsets? ________________________

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The following **miscellaneous itemized deductions,** subject to the 2% AGI limit,[21] are set to return after 2025.[22]

- Appraisal fees
- Casualty and theft losses
- Credit or debit card convenience fees
- Hobby expenses
- Legal expenses
- Safe deposit box rental fees
- Tax preparation fees
- Unreimbursed employee expenses, including traveling, union dues, job education, etc.

Practitioner Planning Tip

As these miscellaneous itemized deductions have not been deductible since 2016, taxpayers may need a reminder of the potential benefit of tracking such expenses and deducting them on their income tax returns. **Practitioners may wish to remind their clients of these deductions before they become active again.**

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21. IRC §67.

22. IRS Pub. 529, *Miscellaneous Deductions*.

The elimination of the SALT cap presents some tax planning opportunities. To maximize the benefit of the SALT deduction, taxpayers who are currently limited by the $10,000 cap may benefit from paying some or all of their state estimated tax payments in early 2026 as opposed to in 2025. Depending on the benefit from the full SALT deduction compared to the amount of late estimated tax payment penalty, some taxpayers may benefit from the larger deduction even when incurring late payment penalties. Practitioners should estimate such costs and benefits when discussing this planning strategy with their clients.

Note. Should the SALT cap limitation expire, tax practitioners should understand the impact of their state's rules as a response to any current pass-through entity rules.

PERSONAL EXEMPTIONS

Taxpayers can claim a personal exemption for themselves, their spouse, and their dependents. The exemption amount changes annually.[23]

Rules Under the TCJA

The TCJA eliminated personal exemptions. During the TCJA period, taxpayers can no longer deduct such exemptions to arrive at taxable income.[24]

Rules When the TCJA Expires

For tax years after December 31, 2025, taxpayers can deduct personal exemptions to arrive at taxable income on their income tax returns. The amount of each personal exemption is estimated to be $5,300 in 2026.[25] Personal exemptions are subject to a phaseout based on the taxpayer's AGI and filing status as follows.

	Unadjusted[26]	Adjusted for Inflation (Estimated) for 2026[27]
Single	$250,000	$341,700
MFS	150,000	205,050
HoH	275,000	375,900
MFJ/QSS	300,000	410,100

Planning Opportunities

In planning for tax years after the expiration of the TCJA, practitioners should be mindful of the return of personal exemptions at arriving at taxable income. Taxpayers may need to adjust their withholding or estimated tax payments to reflect changes to anticipated taxable income resulting from exemption deductions.

23. IRC §151.

24. IRC §151(d)(5).

25. *Major tax changes in 2026.* Dec. 12, 2023. Cato Institute. [www.cato.org/sites/cato.org/files/2023-12/print-copy_amichel_2026-tax-changes_final.pdf] Accessed on Jun. 27, 2024.

26. IRC §68(b).

27. Rev. Proc. 2015-53, 2015-44 IRB 615; *Major tax changes in 2026*. Dec. 12, 2023. Cato Institute. [www.cato.org/sites/cato.org/files/2023-12/print-copy_amichel_2026-tax-changes_final.pdf] Accessed on Jun. 27, 2024; Inflation was estimated by comparing the 2016 standard deductions for each filing status and the personal exemption with the 2026 estimated standard deductions and personal exemption estimated by the Cato Institute and multiplying the 2016 applicable thresholds by the increased percentage.

HOME MORTGAGE INTEREST DEDUCTION[28]

Qualified residence interest is allowed as an itemized deduction, subject to limitations. Qualified residence interest is defined as interest paid or accrued during the tax year on either acquisition indebtedness or home equity indebtedness secured by a qualified residence. A **qualified residence** is a taxpayer's principal residence and one other residence of the taxpayer selected to be a qualified residence.

Acquisition indebtedness is indebtedness incurred in acquiring, constructing, or substantially improving a qualified residence of the taxpayer and is secured by the residence. **Home equity indebtedness** is indebtedness other than acquisition indebtedness secured by a qualified residence.

Rules Under the TCJA

For tax years within the TCJA period, a taxpayer may treat no more than $750,000 as acquisition indebtedness ($375,000 for MFS taxpayers).

For acquisition indebtedness incurred **before December 15, 2017,** the limit is $1 million ($500,000 for MFS taxpayers). If a taxpayer entered into a written binding contract before December 15, 2017, to close on the purchase of a principal residence before January 1, 2018, and purchased the residence before April 1, 2018, the $1 million limit ($500,000 for MFS taxpayers) applies.

In addition, refinanced indebtedness is treated as incurred on the date that the original indebtedness was incurred to the extent that the amount of the debt resulting from the refinancing does not exceed the amount of the refinanced indebtedness. Therefore, acquisition debt incurred prior to December 15, 2017, retains its status, even if the debt is refinanced. The maximum dollar amount that can be treated as principal residence acquisition indebtedness does not decrease because of refinancing.

The TCJA suspends the deduction for interest on certain types of **home equity indebtedness.**[29] Interest paid on home equity loans and home equity lines of credit is **not deductible unless the loans are used to buy, build, or substantially improve the taxpayer's home that secures the loan.** This applies to tax years within the TCJA period. During these years, for example, interest on a home equity loan used to build an addition to an existing home is typically deductible, while interest on the same loan used to pay personal expenses is not. The $750,000 limit ($375,000 for MFS taxpayers) applies to the combined amount of loans used to buy, build, or substantially improve the taxpayer's principal residence and second home (if applicable).

During the TCJA period, certain types of home equity debt are no longer treated as qualified residence debt, as the deductibility of interest paid on such debt must now be determined under the interest-tracing rules.

Rules When the TCJA Expires

The maximum amount that can be treated as acquisition indebtedness is $1.1 million ($550,000 for MFS taxpayers).[30] The deduction for interest on certain types of home equity indebtedness is no longer restricted when the TCJA expires. Interest paid on home equity loans and home equity lines of credit is deductible regardless of whether the loans are used to buy, build, or substantially improve the taxpayer's home securing the loan. The $1.1 million limit ($550,000 for MFS taxpayers) applies to the combined amount of loans used to buy, build, or substantially improve the taxpayer's principal residence and second home (if applicable).

28. IRC §163(h).
29. IRS News Rel. IR-2018-32 (Feb. 21, 2018).
30. CCA 200940030 (Oct. 2, 2009).

Planning Opportunities

Interest expense tracing rules may be relaxed and allow additional interest to qualify for a deduction. The purchase of a home with a debt of greater than $750,000 may lead to a larger interest deduction in 2026 and after. Depending on how the debt is acquired and for what purpose, interest deductions in 2026 could be increased compared to deductions during the TCJA period.

CASUALTY AND THEFT LOSSES[31]

A taxpayer can claim a deduction for a casualty or theft loss incurred during the tax year for which they were not compensated by insurance or otherwise. For individual taxpayers, deductible losses are those incurred in a trade or business, or that consist of property losses arising from casualty or theft. Personal casualty or theft losses are deductible only if they exceed $100 per casualty or theft and only to the extent that aggregate net casualty and theft losses exceed 10% of the taxpayer's AGI.

Rules Under the TCJA

The TCJA temporarily modified the deduction for personal casualty and theft losses. Under this provision, a taxpayer can claim a personal casualty loss only if the loss is attributable to a **federally declared disaster.**

However, a taxpayer can still offset personal casualty losses not attributable to a federally declared disaster against personal casualty gains to the extent that such losses do not exceed such gains.[32] When applying the 10% AGI threshold to personal casualty losses attributable to a federally declared disaster, the amount of casualty gains taken into account is reduced by the portion of gains offset against casualty losses not attributable to federally declared disasters.[33]

Rules When the TCJA Expires

A taxpayer can claim a personal casualty loss regardless of whether the loss is attributable to a federally declared disaster, subject to the limitations mentioned previously.

CHILD TAX CREDIT[34]

The child tax credit (CTC) is a reduction of tax based on the number of qualifying children the taxpayer has and the level of income the taxpayer earned in the tax year. Since the CTC was first enacted in 1997, the amount of the credit, its refundability, and various phase-outs have been modified several times based on congressional priorities at the time.

Rules Under the TCJA

The CTC is a $2,000 maximum tax credit per qualifying child under the age of 17. A portion of the credit, commonly referred to as the additional child tax credit (ACTC), may be refundable depending upon the taxpayer's earned income.[35] For 2024, the ACTC may refund eligible taxpayers up to $1,700.[36] The credit is phased out when modified adjusted gross income (MAGI) exceeds the following thresholds.

	MFJ	All Other Filers
MAGI	$400,000	$200,000

31. IRC §165(h).

32. IRC §165(h)(5)(B)(i).

33. IRC §165(h)(5)(B)(ii).

34. IRC §24.

35. IRC §24(d).

36. Rev. Proc. 2023-34, 2023-48 IRB 1287.

Rules When the TCJA Expires

The CTC is reduced to $1,000 per qualifying child under the age of 17. The credit will be phased out when MAGI exceeds the following thresholds.

	MFJ	All Other Filers
MAGI	$110,000	$75,000

> **Note.** The reinstatement of personal exemptions for dependents will offset some of the tax benefits lost from the change in the CTC amount.

Planning Opportunities

Depending on a taxpayer's number of dependents and their tax bracket, their tax liability may increase resulting from the reduction of the CTC, even considering the return of personal exemptions. Practitioners should identify such clients in their tax planning conversations with them. One strategy may include accelerating certain taxable income in 2025 while the CTC income phaseout thresholds are much higher, potentially allowing the taxpayer the opportunity to claim the credit in 2026 when the income threshold significantly drops. **Taxpayers may need to adjust their withholding or estimated tax payments for tax years after 2025** to account for any increase in tax liability due to the change in the CTC amount and income thresholds.

Example 3. Liam and his wife, Samantha, generally have MAGI of $160,000 each year. In 2025, they have two pre-teenage children who live with them. For 2025, Liam and Samantha are able to claim a CTC of $4,000 ($2,000 credit × 2 children). In 2026 when their MAGI is again $160,000, Liam and Samantha are unable to claim the CTC due to the credit being completely phased-out by their income exceeding the lower MAGI threshold.

Example 4. Use the same facts as **Example 3,** except Liam shifts $55,000 of income from his sole proprietor business from 2026 to 2025. Liam and Samantha have MAGI of $215,000 in 2025 ($160,000 base income + $55,000 shifted income from 2026) and claim a CTC of $4,000 ($2,000 credit × 2 children). In 2026, Liam and Samantha have MAGI of $105,000 ($160,000 base income − $55,000 shifted income to 2025) and claim a CTC of $2,000 ($1,000 credit × 2 children). By successfully shifting $55,000 of income, Liam and Samantha are able to increase their CTC in 2026 by $2,000.

OTHER DEPENDENTS CREDIT[37]

The other dependents credit (ODC) helps taxpayers address the costs associated with maintaining and providing for a household. To qualify:

- Taxpayers must provide over half of a **qualifying person's** support for the tax year,
- The qualifying person's income must be below the inflation adjusted exemption amount, and
- The person must meet certain relationship and residency requirements to be qualified.[38]

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37. IRC §24(h)(4).

38. IRC §152(d)(1).

The qualifying person must bear one of the following relationships to the taxpayer.[39]

- A child or grandchild
- A sibling or stepsibling
- A father, mother, or ancestor of either
- A stepparent
- A niece or nephew
- An aunt or uncle
- A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law
- An individual (other than a spouse) who lived with the taxpayer for the tax year and is a member of the taxpayer's household

Rules Under the TCJA

Taxpayers can claim a $500 maximum nonrefundable tax credit for each qualifying person. The credit begins to phase out when a taxpayer's MAGI exceeds the following thresholds, which are not subject to inflation.[40]

	MFJ	All Other Filers
MAGI	$400,000	$200,000

Rules When the TCJA Expires

The ODC is eliminated. However, dependent exemptions return, allowing taxpayers with dependents other than qualifying children to receive relief.[41]

Planning Opportunities

For most taxpayers, the tax savings from claiming a personal exemption for a dependent is greater than the $500 ODC. However, higher income taxpayers will lose the benefit of the dependent credit at lower income levels when the TCJA expires. Practitioners should identify such clients in their tax planning conversations with them, particularly those whose estimated tax payments may need adjusting to accommodate a higher projected tax liability in 2026. Additionally, practitioners may suggest additional strategies to mitigate impacted clients' tax burdens.

39. IRC §152(d)(2).

40. IRC §24(h)(3).

41. IRC §§151(c) and (d)(5).

Example 5. John and Sarah are married with two children, Emma (age 14) and Michael (age 9). They also financially support Sarah's mother, Mary (age 75), who lives with them. In 2025, in addition to taking the CTC for Emma and Michael, John and Sarah are eligible for the ODC for Mary, their dependent. The $500 credit directly reduces their tax liability.

In 2026, John and Sarah are not able to claim the ODC for Mary due to the expiration of the TCJA eliminating the credit. Instead, the couple claimed five personal exemptions on their return, consisting of two for each of them, two for their children, and one for Mary. Because they are in the 28% tax bracket in 2026, claiming the personal exemption for Mary results in a reduction in John and Sarah's income tax of $1,484 ($5,300 personal exemption × 28%). Therefore, in their specific situation, the personal exemption provided a greater tax benefit than the ODC of $500 to John and Sarah.

Discussion: How could John use a health savings account (HSA) contribution to reduce his post-TCJA taxable income? ______________________________

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Discussion: What other tax-saving tools could John and Sarah consider in their situation to take advantage of the ODC before it expires? ______________________________

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TAX BRACKETS

The U.S. federal income tax structure is based on a progressive tax system, where a tax progresses to a higher tax rate alongside an increase in income levels.[42] Consequently, understanding marginal rates and tax brackets is a critical component of tax planning.

Rules Under the TCJA

Seven income tax rates apply to individual taxpayers. For 2024, the following tax tables apply.[43]

Tax Rate	Single	MFJ/QSS	MFS	HoH
10%	$0 to $11,600	$0 to $23,200	$0 to $11,600	$0 to $16,550
12%	11,601 to 47,150	23,201 to 94,300	11,601 to 47,150	16,551 to 63,100
22%	47,151 to 100,525	94,301 to 201,050	47,151 to 100,525	63,101 to 100,500
24%	100,526 to 191,950	201,051 to 383,900	100,526 to 191,950	100,501 to 191,950
32%	191,951 to 243,725	383,901 to 487,450	191,951 to 243,725	191,951 to 243,700
35%	243,726 to 609,350	487,451 to 731,200	243,726 to 365,600	243,701 to 609,350
37%	Over 609,350	Over 731,200	Over 365,600	Over 609,350

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42. IRC §1.

43. Rev. Proc. 2023-34, 2023-48 IRB 1287.

Rules When the TCJA Expires

Tax rates will revert back to their pre-TCJA amounts of 10%, 15%, 25%, 28%, 33%, 35%, and 39.6%, and the higher rates will apply to lower brackets. Adjusted for inflation, estimated individual income tax brackets for 2026 follows.[44]

Tax Rate	Single	MFJ/QSS	MFS	HoH
10%	$0 to $9,325	$0 to $18,650	$0 to $9,325	$0 to $13,350
15%	9,326 to 37,950	18,651 to 75,900	9,326 to 37,950	13,351 to 50,800
25%	37,951 to 91,900	75,901 to 153,100	37,951 to 76,550	50,801 to 131,200
28%	91,901 to 191,650	153,101 to 233,350	76,551 to 116,675	131,201 to 212,500
33%	191,651 to 416,700	233,351 to 416,700	116,676 to 208,350	212,501 to 416,700
35%	416,701 to 418,400	416,701 to 470,700	208,351 to 235,350	416,701 to 444,550
39.6%	Over 418,400	Over 470,700	Over 235,350	Over 444,550

Planning Opportunities

Taxpayers should consider taking advantage of the lower tax rates in the TCJA tax years. For example, taxpayers wishing to convert from a traditional individual retirement arrangement (IRA) to a Roth IRA may benefit from making such conversions in 2024 and 2025. Taxpayers considering this strategy should keep in mind that they are not required to convert the entire balance of an IRA account.

> **Note.** For more information about Roth conversions, see the 2023 *University of Illinois Federal Tax Workbook*, Chapter 8: Retirement Plan Issues for Individuals.

Contrary to a traditional IRA strategy, a Roth IRA strategy provides no tax deduction for contributions and qualified withdrawals are not included in taxable income.

Example 6. Miguel is a single taxpayer with taxable income of $70,000 in 2026. He contributes $5,000 to a traditional IRA. The contribution is deductible on his 2026 tax return (assuming he meets the income eligibility criteria and is not covered by an employer-sponsored retirement plan), reducing his taxable income to $65,000 ($70,000 taxable income – $5,000 contribution). Assuming a 25% tax rate, Miguel saves $1,250 in taxes ($5,000 contribution × 25% tax rate).

Example 7. Use the same facts as **Example 6,** except Miguel has taxable income of $115,000. Miguel is now in the 28% tax bracket. The $5,000 IRA contribution saves him $1,400 in taxes ($5,000 contribution × 28% tax rate).

Discussion: What are some retirement considerations Miguel should consider when assessing options for contributions to traditional and Roth IRAs? ______________________________

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Discussion: What are some other strategies Miguel should consider when facing the tax bracket changes occurring in 2024, 2025, and 2026 as the TCJA sunsets? ______________________________

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44. *2026 Tax Year Changes*. Sep. 27, 2023. eFile.com. [www.efile.com/2026-tax-year-changes-tcja] Accessed on Jun. 28, 2024.

ALTERNATIVE MINIMUM TAX

The alternative minimum tax (AMT) was intended to prevent high income taxpayers from exploiting the income tax benefits available to lower income taxpayers. Alternative minimum taxable income (AMTI) is calculated by modifying regular taxable income for certain preferences and adjustments.

These adjustments include, but are not limited to, the following.[45]

- Itemized deductions for SALT are not allowed.
- The standard deduction is not allowed.

After subtracting the AMT exemption amount applicable to the filing status and income levels from AMTI, the tentative minimum tax is calculated based on the AMT brackets and applicable rates for capital gains and qualified dividends. The AMT is the amount by which the tentative minimum tax exceeds the regular income tax for the year.[46]

Rules Under the TCJA

The AMT exemption and income phase-out amounts are indexed for inflation. For tax years beginning in 2024, the amount of income exempt from AMT is the following for individual taxpayers.[47]

- $133,300 for MFJ taxpayers and QSS
- $85,700 for single taxpayers and HoH
- $66,650 for MFS taxpayers

For tax years beginning in 2024, the exemption amounts are phased out by 25% of the amount by which the individual's AMTI exceeds the following amounts.[48]

- $1,218,700 for MFJ taxpayers and QSS
- $609,350 for all other taxpayers

Note. For more information on the TCJA impact on AMT, see the 2018 *University of Illinois Federal Tax Workbook*, Volume A, Chapter 2: Individual Taxpayer Issues. This can be found at **uofi.tax/arc** [taxschool.illinois.edu/taxbookarchive].

Rules When the TCJA Expires

For tax years beginning in 2026, the AMT exemption and phase-out will revert to pre-TCJA levels and then both will be adjusted for inflation. The 2026 amounts are estimated to be the following.[49]

- $110,400 for MFJ taxpayers and QSS
- $71,000 for single taxpayers and HoH
- $55,200 for MFS taxpayers

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45. IRC §56.
46. IRC §55.
47. IRS News Rel. IR-2023-208 (Nov. 9, 2023).
48. Ibid.
49. Rev. Proc. 2015-53, 2015-44 IRB 615; *Major tax changes in 2026*. Dec. 12, 2023. Cato Institute. [www.cato.org/sites/cato.org/files/2023-12/print-copy_amichel_2026-tax-changes_final.pdf] Accessed on Jun. 27, 2024; Estimated inflation by comparing the 2016 standard deductions for each filing status and the personal exemption with the 2026 estimated standard deductions and personal exemption estimated by the Cato Institute and multiplying the 2016 AMT and AMTI thresholds by the increased percentage.

For tax years beginning in 2026, the exemption amounts are phased out by 25% of the amount by which the individual's AMTI exceeds the following estimated amounts.[50]

- $210,400 for MFJ taxpayers and QSS
- $157,700 for single taxpayers and HoH
- $105,200 for MFS taxpayers

Among the AMT adjustments modifying a taxpayer's AMTI includes miscellaneous itemized deductions. Because these deductions are disallowed by the TCJA,[51] taxpayers do not factor them as AMT adjustments in calculating AMTI during the TCJA period. With the return of these deductions in 2026, a taxpayer's AMTI must be modified to exclude miscellaneous itemized deductions the taxpayer claims on their Schedule A, *Itemized Deductions*.[52] Similarly, **personal exemptions** are an AMT adjustment that must be factored into calculating AMTI upon their return under the expiration of the TCJA.[53]

Planning Opportunities

If the AMT provisions return to pre-TCJA levels, **the number of affected taxpayers is expected to increase from 200,000 to over 5 million filers.[54] Long-term tax planning must include potential for exposure to this tax.**

During the years prior to the expiration of the TCJA, it may benefit taxpayers to realize income subject to an AMT adjustment while the exemptions and phase-outs are higher. For example, exercising an incentive stock option (ISO) creates AMTI to the extent the fair market value (FMV) at the time of exercise is greater than the exercise price.[55] Taxpayers may benefit from exercising ISOs during 2024 and 2025 instead of in 2026 or later.

> **Note.** For more information on ISOs and associated AMT implications, see the 2016 *University of Illinois Federal Tax Workbook*, Volume B, Chapter 1: Individual Taxpayer Issues and the 2019 *University of Illinois Federal Tax Workbook*, Volume A, Chapter 3: Calculating Basis. These can be found at **uofi.tax/arc** [taxschool.illinois.edu/taxbookarchive].

QUALIFIED BUSINESS INCOME DEDUCTION

The QBID is among the most substantial changes arising from the enactment of the TCJA. The QBID is a tax deduction of 20% of qualified business income (QBI) from U.S. domestic business activities.[56] In addition to deriving from ownership of a sole proprietorship or interests in passthrough entities, discussed later, QBI may also derive from dividends and investment activity.

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50. Ibid.

51. IRC §67(g).

52. IRC §56(b)(1)(A)(i).

53. IRC §56(b)(1)(D).

54. *Major tax changes in 2026*. Dec. 12, 2023. Cato Institute. [www.cato.org/sites/cato.org/files/2023-12/print-copy_amichel_2026-tax-changes_final.pdf] Accessed on Jun. 18, 2024.

55. IRC §56(b)(3).

56. IRC §199A.

Rules Under the TCJA

Taxpayers may receive a 20% deduction of the aggregate amount of the taxpayer's qualified real estate investment trust (REIT) dividends and qualified publicly traded partnership (PTP) income for the tax year.[57] A qualified REIT dividend is any dividend from a REIT that meets **both** of the following criteria.[58]

1. The dividend is not a capital gain dividend under IRC §857(b)(3), and
2. The dividend is not qualified dividend income under IRC §1(h)(11).

REIT dividends are reported on Box 5, *Section 199A dividends*, of Form 1099-DIV, *Dividends and Distributions*.[59]

PTP income subject to the QBID is the sum of the following.[60]

1. The taxpayer's share of qualified income, deduction, gain, and loss from a PTP defined under IRC §7704(a), and
2. The taxpayer's recognized gain upon their disposition of their interest in the PTP if the interest is not a capital asset under IRC §751(a).

PTP income and other information related to IRC §199A and the QBID is reported on the partner's Schedule K-1 (Form 1065), *Partner's Share of Income, Deductions, Credits, etc.*, in Box 20, *Other information*, Code Z.[61] Shareholders report §199A information on Schedule K-1 (Form 1120-S), *Shareholder's Share of Income, Deductions, Credits, etc.,* in Box 17, *Other information,* using Code V.[62]

Rules When the TCJA Expires

The QBID will expire for tax years beginning in 2026. Consequently, taxpayers will not receive a 20% deduction for REIT dividends, PTP income, and QBI for 2026 and subsequent tax years.[63]

Planning Opportunities

Taxpayers may consider altering their investments appropriately, as REIT dividends and PTP income will not yield a deduction for QBI.

> **Example 8.** Jasper is a high-income taxpayer who has been investing in a REIT for several years. He has been benefiting from the QBID, which allows him to deduct up to 20% of QBI from his REIT investments each year since 2017. In anticipation of the TCJA expiring, Jasper meets with his tax advisor in 2024 to discuss the impact of the QBID phase-out on his overall tax liability. They review strategies to optimize Jasper's tax position, including potential adjustments to his investment portfolio.
>
> Based on advice from his tax advisor, Jasper explores alternative investment opportunities that may offer better after-tax returns given the impending QBID phase-out. This includes investments in assets with a different tax treatment. Jasper is instructed to be aware of timing considerations of any potential sales or purchases, such as ensuring capital gains do not place Jasper in a higher tax bracket while factoring in capital losses for AGI limitations to deductions and other non-tax, financial purposes, such as loan applications.

57. IRC §199A(b)(1)(B).
58. IRC §199A(e)(3).
59. Instructions for Form 1099-DIV.
60. IRC §199A(e)(4).
61. Instructions for Schedule K-1 (Form 1065).
62. Instructions for Schedule K-1 (Form 1120-S).
63. IRC §199A(i).

Discussion: What are some other strategies Jasper should consider for his individual tax return facing the QBID changes occurring in 2024, 2025, and 2026 as the TCJA sunsets? ______________________________

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POTENTIAL IMPACT ON BUSINESS TAX RETURNS

The TCJA made changes to the Code impacting business income tax returns, perhaps most notably the QBID. Other changes also arose from the enactment of the TCJA that taxpayers and their practitioners should consider in light of the possibility of these provisions expiring along with the sunset of the TCJA. This section addresses these considerations as well as associated potential planning opportunities.

QUALIFIED BUSINESS INCOME DEDUCTION

As described earlier, QBID is a tax deduction equal to 20% of QBI derived from U.S. domestic business activities.[64] QBID became a significant tax planning strategy during the TCJA period.

Rules Under the TCJA

QBID applies only for income tax purposes and is not a deduction for self-employment (SE) or net investment income tax (NIIT) purposes.[65] The deduction is taken after the standard or itemized deductions.[66]

Individual taxpayers with QBI from a partnership, S corporation, estate, trust, sole proprietorship and from certain rental activities can claim the QBID.[67] QBI comprises the net amount of qualified items of income, gain, deduction, and loss derived from a taxpayer's qualified trade or business.[68] QBI includes the taxpayer's deductible part of SE tax, self-employed health insurance, and contributions to qualified retirement plans, such as simplified employee pension (SEP) plans and savings incentive match plan for employees (SIMPLE).[69] **QBI does not include the following items.[70]**

- Items not properly included in taxable income
- Investment items including capital gains or losses
- Interest income not related to a trade or business
- Income from wages
- Income from business conducted outside the United States
- Commodities transactions or foreign currency gains or losses
- Certain dividends and payments in lieu of dividends

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64. IRC §199A.

65. *Tax Cuts and Jobs Act, Provision 11011 Section 199A - Qualified Business Income Deduction FAQs*. Dec. 01, 2023. IRS. [www.irs.gov/newsroom/tax-cuts-and-jobs-act-provision-11011-section-199a-qualified-business-income-deduction-faqs] Accessed on May 14, 2024.

66. IRC §63(b)(3).

67. IRC §§199A(d) and (f).

68. IRC §199A(c)(1).

69. *Qualified Business Income Deduction*. Apr. 26, 2024. IRS. [www.irs.gov/newsroom/qualified-business-income-deduction] Accessed on May 14, 2024.

70. Ibid.

- Notional principal contract income, losses, or deductions
- Annuities not received in connection with a trade or business
- Reasonable compensation received from an S corporation
- Guaranteed payments received from a partnership
- Payments for services rendered outside the capacity of a partner
- Qualified REIT dividends, as described earlier
- PTP income, as described earlier

Taxpayers receive a total QBID from the combination of the following.[71]

1. The sum of the **initial QBIDs**, for each of the taxpayer's qualified businesses
2. 20% of the aggregate amount of the taxpayer's qualified REIT dividends and PTP income for the tax year, as described earlier

Note. This formula only results in combined QBID if the taxpayer has net positive aggregate QBI from qualified businesses and/or positive aggregate income from REITs and PTPs.

Qualified Business Losses.[72] When the net QBI from all qualified businesses is less than zero, the combined QBID from qualified businesses is zero (item 1 of the combined QBID formula) for the tax year. The resulting qualified business loss (QBL) is treated as negative QBI from a separate trade or business in the taxpayer's succeeding tax year. This requirement does not affect the deductibility of the loss under other sections of the Code.

Taxpayers who have one or more businesses with QBLs but net positive overall QBI must apportion their QBLs among the businesses with positive QBI in proportion to the relative amounts of their positive QBI. The business's QBI less its allocation of losses from other businesses is its adjusted QBI, which becomes its QBI for the purposes of the initial QBID calculation.[73]

Specified Service Business. The QBID attributable to positive QBI from a specified service business (SSB) is reduced for taxpayers whose taxable income exceeds the following thresholds in 2024.[74]

- $383,900 for MFJ taxpayers
- $191,950 for all other filing statuses

The limitation is gradually phased in for MFJ taxpayers with taxable income between $383,900 and $483,900. The phase-in range is between $191,950 and $241,950 for other filing statuses. Taxpayers with SSBs that have taxable income above $483,900 (MFJ taxpayers) or $241,950 (all other taxpayers) are not entitled to a QBID.[75]

71. IRC §199A(b)(1).
72. Treas. Reg. §1.199A-1(c).
73. Treas. Reg. §1.199A-1(d)(2)(iii).
74. Rev. Proc. 2023-34, 2023-48 IRB 1287.
75. Ibid.

An SSB is any trade or business involving the performance of services in the following areas.[76]

- Health
- Law
- Accounting
- Actuarial science
- Performing arts
- Consulting
- Athletics
- Financial service (including investing and investment management, and trading or dealing in securities or commodities)
- Brokerage services

An SSB also includes any trade or business in which **the principal asset is the reputation or skill of one or more of its employees or owners.**[77] This definition applies to any trade or business in which a person does one or more of the following.[78]

1. Receives fees, compensation, or other income for endorsing products or services
2. Licenses or receives fees, compensation, or other income for the use of an individual's image, likeness, name, signature, voice, trademark, or any other symbols associated with the individual's identity
3. Receives fees, compensation, or other income for appearing at an event or on radio, television, or another media format

Rules When the TCJA Expires

The QBID will expire for tax years beginning in 2026. Prior to the enactment of the TCJA, qualifying taxpayers could claim a domestic production activities deduction (DPAD) under IRC §199. However, the TCJA not only replaced the DPAD with the QBID, but it repealed the DPAD and §199 in its entirety.[79]

Planning Opportunities

Taxpayers with QBI may benefit from recognizing income in 2024 and 2025 to receive benefit from the QBID. Depending on their basis of accounting, taxpayers should consider accruing more income in 2024 and 2025 or collect payment in those years for services to be rendered in 2026 and later. One strategy may include selling items that potentially result in an ordinary IRC §1231 gain, which increases QBI. It may also benefit taxpayers to delay incurring or paying expenses until 2026 to recognize more income in prior years to benefit from the QBID.

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76. IRC §§199A(d)(2)(A) and 1202(e)(3)(A).

77. Ibid.

78. Treas. Reg. §1.199A-5(b)(2)(xiv).

79. *Tax Cuts and Jobs Act*, PL 115-97, §13305.

Example 9. Clara operates a small consulting business as a sole proprietorship and files a Schedule C, *Profit or Loss from Business,* with her tax return. With the TCJA provisions set to expire, Clara plans for potential changes in tax law that could affect her business and personal taxes. She considers postponing as many deductible expenses into the 2026 and following tax years as possible to claim higher income eligible for the QBID in 2024 and 2025. Additionally, Clara keeps in mind that contributions to her SEP IRA would reduce the income eligible for the QBID and considers postponing those as well.

Discussion: What are some other strategies Clara should consider facing the QBID deduction changes occurring between 2024 and 2026 as the TCJA sunsets? ______________________________

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Discussion: Would there be a benefit to Clara waiting to make purchases of depreciable property until 2026?

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BONUS DEPRECIATION

Taxpayers can accelerate the depreciation of certain qualified property using a special allowance commonly referred to as bonus depreciation.[80] Bonus depreciation is in addition to regular depreciation and is automatic unless the taxpayer elects out.[81]

Bonus depreciation is applicable for the **first tax year** that qualifying property is placed in service. The adjusted basis of the property is first reduced by the bonus depreciation claimed and then regular depreciation deductions are computed on any remaining basis. Unlike IRC §179 expensing, there is no limit on the total amount of bonus depreciation a taxpayer can claim in any given tax year or short tax year.[82]

Note. For eligible property, §179 expensing is claimed first. Then, bonus depreciation is claimed, and any remaining basis is subject to modified cost recovery system (MACRS). For comprehensive coverage of these options, see the 2023 *University of Illinois Federal Tax Workbook,* Chapter 7: Depreciation.

Only qualified property is eligible for bonus deprecation. **Qualified property** includes the following.[83]

- Property with a recovery period of 20 years or less
- Computer software depreciable over three years under IRC §167(f)
- MACRS water utility property
- Qualified film or television production as defined under IRC §181(d) that the aggregate cost exceeds $15 million and/or the production commences after December 31, 2025
- Qualified live theatrical production as defined under §181(e) that the aggregate cost exceeds $15 million and/or the production commences after December 31, 2025

80. IRC §168(k).

81. IRC §168(k)(7).

82. *Additional First Year Depreciation Deduction (Bonus) – FAQ.* Jan. 30, 2024. IRS. [www.irs.gov/newsroom/additional-first-year-depreciation-deduction-bonus-faq] Accessed on May 15, 2024.

83. IRC §168(k)(2)(A)(i).

Rules Under the TCJA

The TCJA altered provisions under IRC §168(k) impacting the amount and deductibility of bonus depreciation.

Qualified Property. Qualified property applies to new property. The TCJA allows qualified property to include used property if such property met the following two acquisition requirements.[84]

1. The taxpayer did not use the property at any time before acquiring it.
2. The taxpayer acquired the property by "purchase" within the meaning of §179(d)(2).

An acquisition is considered a **purchase** under §179(d)(2) unless the property meets any of the following criteria.

- Acquired from a close family member[85]
- Acquired by one member of a controlled group[86] of corporations from another member
- Has a basis in the hands of the acquirer determined wholly or partly by reference to the adjusted basis of the disposing party (e.g., a gift or IRC §1022 basis property)
- Has its basis determined under IRC §1014(a) (relating to inherited or bequeathed property)

The TCJA designated qualified improvement property (QIP) as being 15-year property, and **therefore qualifies for bonus depreciation.**[87] QIP does not include improvements for the enlargement of a building, elevator or escalator, or the internal structural framework of the building.[88]

Applicable Rate. The bonus depreciation rate was 100% for qualified property acquired and placed in service after September 27, 2017, and before January 1, 2023.[89] Longer production period property (LPPP) and certain noncommercial aircraft (NCA) are eligible if placed in service before January 1, 2025.[90] The 100% rate is phased down for years beginning after 2022. The applicable bonus depreciation rates are shown in the following table.[91]

Calendar Year Placed in Service		
LPPP and NCA	**Other Qualifying Property**	**Bonus Depreciation Rate**
After September 27, 2017, and before 2024	After September 27, 2017, and before 2023	100%
2024	2023	80%
2025	2024	60%
2026	2025	40%
2027	2026	20%
2028 and subsequent years	2027 and subsequent years	0%

84. IRC §§168(k)(2)(A)(ii) and (E)(ii).

85. As defined under IRC §§267 or 707(b) except as modified by IRC §179(d)(2)(A).

86. As defined under IRC §1563(a) except substituting 50% for the 80% stock ownership requirement under IRC §1563(a)(1).

87. IRC §168(e)(3)(E)(vii); Treas. Reg. §1.168(b)-1(a)(5).

88. IRC §168(e)(6)(B).

89. IRC §§168(k)(1)(A) and (6)(A).

90. IRC §§168(k)(1)(A) and (6)(B).

91. IRC §168(k)(6).

Rules When the TCJA Expires

The bonus depreciation applicable rate is scheduled to phase down to 0% by January 1, 2028, for LPPP and NCA, and by January 1, 2027, for other qualifying property. This will result in taxpayers only being able to use bonus depreciation for a couple of years subsequent to the planned expiration of the TCJA.[92]

Planning Opportunities

Both bonus depreciation and the §179 deduction allow current year expensing of costs that otherwise would be deducted over multiple years. However, each provision operates somewhat differently in which assets qualify and what limits apply to the deductions.

One of the most significant differences between bonus depreciation and the §179 deduction is the dollar limitations on deductibility are only applicable to §179. For 2024, the following limitations apply to the §179 deduction.[93]

- The deduction cannot exceed $1,220,000
- The deduction is reduced dollar-for-dollar after the total cost of qualified assets exceeds $3,050,000

In addition to these limitations, the §179 deduction cannot create a loss from a taxpayer's trade or business.[94] Allowable §179 deductions in excess of income are carried forward.

When evaluating whether to elect §179 and/or elect out of bonus depreciation, practitioners may need to consider how these provisions carry forward to future years, especially if either of the following are true.

- The §179 deduction is limited by income, and
- **Bonus depreciation creates a net operating loss (NOL).**

Taxpayers who are considering making significant investments may benefit from purchasing the assets prior to the phase-out of the bonus depreciation deduction.

Example 10. In 2022, ABC, Co. is considering upgrading some of its equipment. The company has some flexibility in when they make the purchase. The desired replacement equipment costs $100,000, and its cost is not anticipated to increase in future years.

ABC purchases the $100,000 equipment in 2022 and elects 100% bonus on the purchase. ABC has income of $75,000 prior to the bonus deduction. The bonus depreciation creates an NOL of $25,000 ($75,000 income − $100,000 bonus deduction). Consequently, ABC does not have a tax liability for 2022.

Example 11. Use the same facts as **Example 10,** except ABC does not make the purchase until 2026. ABC takes the maximum 20% bonus deduction in the first year after taking §179 expense of $80,000 on the equipment cost, resulting in a total of $4,000 bonus depreciation (($100,000 equipment cost – $80,000 §179 expense) × 20% bonus depreciation rate). ABC has income of $75,000 prior to any depreciation deduction in 2026. MACRS depreciation on the remaining $16,000 equipment cost ($100,000 total cost – $80,000 §179 expense – $4,000 bonus depreciation), using a 7-year class life, is $2,286 ($16,000 × 0.1429 depreciation rate for 7-year property using the half-year convention). The depreciation deduction in 2026 is $6,286 ($4,000 bonus + $2,286 MACRS depreciation).

Consequently, ABC has income of $68,714 after taking into account depreciation ($75,000 income – $6,286 depreciation). After applying §179 expense to its remaining income, ABC has a tax liability of $0 and a §179 expense carryover of $11,286 ($80,000 §179 expense – $68,714 income limitation).

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92. Ibid.

93. Rev. Proc. 2023-34, 2023-48 IRB 1287.

94. IRC §179(b)(3).

Discussion: What are the advantages of ABC, Co. taking bonus depreciation over §179 expense? ________

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Discussion: What other strategies should ABC, Co. consider facing the phasing out of bonus depreciation in 2024, 2025, and 2026 as the TCJA sunsets? ____

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Congress has a long history of modifying and extending bonus depreciation provisions.[95] Because the provisions themselves do not expire, future legislation may reactivate the deduction simply by modifying §168(k)(6) to provide percentages applicable to later years.

> **Note.** For more comprehensive coverage of depreciation, including information regarding bonus depreciation and the §179 deduction, see the 2023 *University of Illinois Federal Tax Workbook*, Chapter 7: Depreciation.

POTENTIAL IMPACT ON ESTATE TAX RETURNS

Among the numerous changes resulting from the expiration of the TCJA, the estate tax implications primarily revolve around the reduction of the lifetime estate tax exclusion and the treatment of excess deductions. A discussion of these two planned changes and associated tax planning strategies follows.

REDUCTION OF THE LIFETIME ESTATE TAX EXCLUSION

The **unified credit** against the estate tax is a tax credit every decedent is entitled to use in offsetting both estate value and gift taxation.[96] The credit is applied to the potential estate tax after being reduced by the effect of taxable gifts the taxpayer made during their lifetime.

The credit is calculated based on the basic exclusion amount, also referred to as the **lifetime exemption.** The lifetime exemption changes annually. Normally, it is set at a specified dollar amount and adjusted for inflation each year.

> **Note.** The calculation of the unified credit and the amount of credit a taxpayer uses each year they make taxable gifts is reported on Form 709, *United States Gift (and Generation-Skipping Transfer) Tax Return*.[97] For more information on the unified credit, see the 2023 *University of Illinois Federal Tax Workbook,* Chapter 9: Individual Taxpayer Issues.

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95. *The Economic, Revenue, and Distributional Effects of Permanent 100 Percent Bonus Depreciation*. York, Erica et al. Aug. 30, 2022. Tax Foundation. [taxfoundation.org/research/all/federal/permanent-100-percent-bonus-depreciation-effects] Accessed on May 17, 2024.

96. IRC §2010(a).

97. Instructions for Form 709.

Rules Under the TCJA

The TCJA changed the amount of the lifetime exemption, nearly doubling it from $5.6 million to $11.18 million.[98] For 2024, after adjustments for inflation, the lifetime exemption is $13.61 million.[99]

Rules When the TCJA Expires

The lifetime exemption drops to its lower pre-TCJA amount beginning January 1, 2026, under current law. One projection for the exclusion is estimated to be $7.15 million in 2026.[100]

Year	Basic Exclusion Amount
2017 (pre-TCJA)	$ 5.49 million
2024	13.61 million
2026 (projected)	7.15 million

Planning Opportunities

Taxpayers can use the 2024 and 2025 tax years to benefit from the larger lifetime exemption amount by gifting and transferring property in those two years and reducing their taxable estate by the higher exemption amounts. However, there are several considerations to make when gifting property before the sunset of the TCJA to ensure that such gifts and transfers successfully accomplish estate planning for tax advantageous positions. The following sections describe such considerations and illustrate the underlying concepts to aid tax practitioners advising their clients on estate planning issues before the sunset of the TCJA.

Anti-Clawback Provisions.[101] Historically, the basic exclusion amount increased over time, causing no issues when reconciling taxable gifts to the basic exclusion amount when an individual died. However, with a reduction in the basic exclusion amount after 2025, scenarios may arise where a taxpayer's lifetime taxable gifts exceeded the basic exclusion amount at the time of their death post-2025.

> **Example 12.** Carolyn's net worth was just over $12 million in 2018 before she gave $11,015,000 to her friend, PJ. Carolyn filed Form 709 for 2018 showing that the gift exceeded the 2018 $15,000 annual gift tax exclusion by $11 million. This was the first gift tax return she ever filed. If Carolyn passes away in 2026, she will have already given away more than the exclusion during her lifetime, assuming the exclusion amount that year is $7.15 million.

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98. *Estate and Gift Tax FAQs*. Oct. 23, 2023. IRS. [www.irs.gov/newsroom/estate-and-gift-tax-faqs] Accessed on Apr. 10, 2024.

99. *IRS provides tax inflation adjustments for tax year 2024.* Nov. 27, 2023. IRS. [www.irs.gov/newsroom/irs-provides-tax-inflation-adjustments-for-tax-year-2024] Accessed on Jun. 18, 2024.

100. *Estate Tax.* Nov. 27, 2023. IRS. [www.irs.gov/businesses/small-businesses-self-employed/estate-tax] Accessed on Aug. 1, 2024; *Major tax changes in 2026*. Dec. 12, 2023. Cato Institute. [www.cato.org/sites/cato.org/files/2023-12/print-copy_amichel_2026-tax-changes_final.pdf] Accessed on Aug. 1, 2024.

101. Treas. Reg. §20.2010-1.

Practitioner Planning Tip

Practitioners may want to advise taxpayers making gifts that they may benefit from **multiple** annual exclusion amounts. A person with three children, two of whom are married, five grandchildren, and two lifelong friends could gift $216,000 ($18,000 × 12) in 2024 with no gift tax liability and no requirement to file a gift tax return.

The **clawback** concept refers to a taxpayer who is subject to the estate tax because they used more than their basic exclusion amount available at death, even though their taxable gifts were under the annual basic exclusion amount at the time they gifted property. This treatment would render the benefits of the higher basic exclusion amount during the TCJA useless for taxpayers making gifts during that time who died after 2025.

To address the clawback issue, the IRS issued regulations providing a special rule for decedents whose basic exclusion amount for gifts in prior years exceeds the basic exclusion amount at the time of their deaths. This special rule only applies to taxpayers whose allowable basic exclusion amount for lifetime gifts exceeds the basic exclusion amount at their death. It prevents the estate from being taxed on taxpayer gifts that were free from gift tax in the year the taxpayer made the gift.

Example 13. Marcy, a single taxpayer, made a $4 million taxable gift of real estate in 2018 to her nephew Charlie. In 2019, Marcy made a $5 million taxable gift to Charlie. Both the 2018 and 2019 transactions were complete gifts when Charlie received the title to the property in 2018 and 2019. In 2019, the basic exclusion amount was $11.4 million. Marcy did not make any additional gifts during her lifetime before passing away in 2026.

Assuming the basic exclusion amount for taxpayers dying in 2026 is $7.15 million, Marcy's lifetime taxable gifts of $9 million ($4 million 2018 gift + $5 million 2019 gift) exceed the basic exclusion amount at the time of her passing. Therefore, the special anti-clawback rule applies to Marcy's estate. When filing Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return*, its **credit against the estate tax will be higher than that otherwise allowable to other estates.** Instead of a credit based on the $7.15 million exclusion amount, the estate's **credit will be based on Marcy's lifetime gifts of $9 million.**

Discussion: What additional estate planning opportunities exist for Marcy in 2024 and 2025? ___________

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The IRS provides guidance for gifts made after the decline in the basic exclusion amount. If the taxpayer previously claimed a credit higher than the maximum credit available currently, the credit remains that same amount for years subsequent to the decline in the basic exclusion amount.[102]

[102] Treas. Reg. §20.2010-1(c).

Example 14. Use the same facts as **Example 13,** except that Marcy does not pass away in 2026. She makes another taxable gift to Charlie of $1 million in 2026. Thus, she has given Charlie $10 million over her lifetime in taxable gifts ($4 million in 2018 + $5 million in 2019 + $1 million in 2026).

The estimated 2026 maximum credit will generally be capped based on the lifetime exclusion of $7.15 million. Because this is less than Marcy's lifetime gifts of $10 million, without the special rule, she would owe gift tax for 2026 on the gifts given in 2018 and 2019. However, under the anti-clawback rule, Marcy's 2026 maximum credit will be based on her prior gifts of $9 million. Thus, she will owe gift tax on only the 2026 gift of $1 million, less the annual exclusion. The tax rate applicable to her gift is 40%.

Observation. If Marcy gives Charlie the additional $1 million in 2024 or 2025 instead of 2026, the higher exclusions still apply. Thus, she could have saved $400,000 (40% of $1,000,000) with a little better planning.

Deceased Spouse's Unused Exclusion Considerations.[103] An executor for an estate can make an election to transfer a deceased spouse's unused exclusion (DSUE) to the surviving spouse to offset estate tax in a process known as "portability." Executors make this election by filing a Form 706. The DSUE is the difference between the maximum exclusion in the year of death and the amount used by the decedent at the time of their death. The surviving spouse may apply the DSUE to gifts they make after their spouse dies and to their estate before using their own exemption.[104]

Note. For more information on the DSUE, see the 2023 *University of Illinois Federal Tax Workbook,* Chapter 9: Individual Taxpayer Issues.

In determining how the anti-clawback provisions apply to a surviving spouse, the DSUE is applied to lifetime gifts **before** applying the basic exclusion amount.[105] A DSUE amount elected during the TCJA period is not reduced when a reduction in the basic exclusion amount occurs at the sunset of the TCJA. As such, taxpayers with a DSUE from a spouse who dies during a year in a higher basic exclusion amount are able to use the full DSUE amount against their taxable estate, even if such taxpayers die in a year where the basic exclusion amount is less than the DSUE available to them.

Practitioner Planning Tip

Taxpayers with large estates whose spouses passed away during 2018 through 2025 should consider electing **portability** and filing a Form 706, even if they are not required to file an estate tax form. Estates now have a 5-year window to make a DSUE election.[106] In doing so, the surviving spouse can lock-in a higher exemption amount by carrying over a DSUE originating during a year with a higher basic exclusion amount, even if the surviving spouse passes away after the TCJA sunsets when the basic exclusion amount significantly decreases.

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103. IRC §2010(c)(4); Treas. Reg. §20.2010-2.

104. Treas. Reg. §20.2010-3(b)(ii).

105. Treas. Reg. §20.2010-1(c)(1)(ii)(A).

106. Rev. Proc. 2022-32, 2022-30 IRB 101.

Example 15. Lola and Art were a married couple who lived on the family farm they inherited. After Art died in 2021, his DSUE was $4 million. In 2023, Lola sold the farm and gave her favorite nephew $9 million in taxable gifts; she had never been required to file a gift tax return before. When she filed her 2023 gift tax return, she applied the DSUE against the gift first.

Thus, in 2023, only the $5 million above the DSUE was potentially subject to gift tax ($9 million taxable gift − $4 million DSUE). Because this was less than the lifetime exclusion of $12.92 million in 2023, Lola was not required to pay gift tax. If she were required to file a gift tax return in 2026, her maximum credit would be the greater of her applicable credit amount used in prior periods or the available credit in the current period.

Treatment of Incomplete Gifts.[107] The IRS issued proposed regulations for treating incomplete gifts taxpayers made during 2017 through 2025, and who die after 2025. The regulations require these incomplete gifts to be included in the taxpayer's gross estate at the gifted property's FMV at the time of the taxpayer's death.

Because incomplete gifts are not taxable and do not have the offsetting basic exclusion amount in the year of the gift, **the special anti-clawback provisions do not apply to incomplete gifts.** Consequently, taxpayers do not receive an adjustment to their basic exclusion amount at the time of their death for incomplete gifts that exceeded the basic exclusion amount at the time of death but did not exceed the basic exclusion amount at the time the taxpayer initiated the gifts.

Practitioner Planning Tip

When advising clients to make gifts and transfers during 2024 and 2025 to take advantage of the higher basic exclusion amount under the TCJA, practitioners must communicate the importance of their clients making **completed** gifts. Failing to do so will result in the special anti-clawback provisions not applying to those gifts.

Example 16. Use the same facts as **Example 13,** except Marcy's 2019 gift to Charlie was incomplete because the property title did not transfer to Charlie until after Marcy's death. The special rules under Treas. Reg. §20.2010-1 do not apply, as the $4 million exclusion used against the completed gift in 2018 is less than the $7.15 million exclusion in 2026. Marcy's basic exclusion amount for estate tax purposes in 2026 is $7.15 million. If Marcy has no other assets at her death in 2026, $1.85 million of her estate is subject to estate tax ($9 million − $7.15 million).

Discussion: Are there any benefits or other reasons for Marcy to make an incomplete gift? What factors should she consider when comparing those benefits to the anti-clawback benefits in making gifts during her lifetime?

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107. Prop. Treas. Reg. §20.2010-1.

EXCESS DEDUCTIONS

When the estate's final year administration expenses are greater than the estate's income, the pass-through deduction is called the **excess deductions on termination.** Generally, excess estate deductions do not pass through directly to beneficiaries. However, any losses arising in or carried to the termination year of the estate are subsequently passed through to beneficiaries succeeding to its property.[108] NOL and capital loss deductions and carryovers are passed through to beneficiaries and included in the beneficiaries' AGI.[109]

Excess deductions may be deducted in one of three ways.[110]

1. An adjustment to income on Schedule 1 (Form 1040), *Additional Income and Adjustments to Income* (e.g., estate administration expenses)
2. A non-miscellaneous itemized deduction (e.g., personal property taxes)
3. A miscellaneous itemized deduction (e.g., safety deposit box fees)

Rules Under the TCJA

Prior to the TCJA, excess deductions were always treated as miscellaneous itemized deductions. The TCJA and the subsequent regulations recharacterized trust and estate administration expenses as an adjustment to income.

Rules When the TCJA Expires

Even though other provisions of the TCJA suspended miscellaneous itemized deductions, the suspension did not prohibit beneficiaries from deducting excess administration costs. Consequently, the sunset of the TCJA itemized deduction provisions will not change the treatment of these deductions.

PERMANENT PROVISIONS

While numerous provisions of the TCJA are temporary and are set to expire at the end of 2025, many significant provisions of the TCJA are permanent. This section identifies several key provisions that do not expire.

LIKE-KIND EXCHANGES[111]

Taxpayers disposing property and receiving like-kind property in exchange can defer capital gain or loss arising from the transaction under IRC §1031. To qualify, the property must be held for productive use in a trade or business or for investment, and must be exchanged for like-kind property that will also be held for productive use in a trade or business or for investment. This results in no gain or loss being currently recognized.[112]

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108. IRC §642(h).
109. Treas. Reg. §1.642(h)-1(b).
110. Treas. Reg. §1.67-4(a)(1)(ii); 85 Fed. Reg. 66,219 (Oct. 19, 2020).
111. IRC §1031.
112. IRC §1031(a)(1).

Prior to the enactment of the TCJA, like-kind property eligible for gain or loss deferral included depreciable tangible personal property, intangible and nondepreciable personal property, and real property.[113] However, for exchanges completed after December 31, 2017, the like-kind exchange rules only apply to exchanges of **real property.[114]** As such, no gain or loss is recognized on the exchange of real property held for productive use in a trade or business or for investment to the extent that real property is exchanged for like-kind real property held either for productive use in a trade or business or for investment.[115]

> **Note.** For more information on like-kind exchanges, see the 2018 *University of Illinois Federal Tax Workbook,* Volume B, Chapter 1: New Legislation — Business Concerns. This can be found at **uofi.tax/arc** [taxschool.illinois.edu/taxbookarchive].

In 2020, the IRS issued final regulations identifying real property eligible for like-kind exchanges.[116] Generally, such property includes the following (including intangible interests in such real property).[117]

- Land
- Improvements to land
- Unsevered natural products of land
- Water and air space superjacent to land
- Real property under state or local law

Improvements to land are defined as inherently permanent structures and their structural components. Inherently permanent structures include buildings or other structures that are distinct assets permanently affixed to real property for an indefinite period of time. Facts and circumstances determine whether separately identifiable items of property are **distinct assets** which must be separately analyzed from any other asset to identify if the property is real property eligible for a like-kind exchange. This is a critical concept when considering the treatment of different types of assets that make up one system where such interconnected assets should be analyzed together as a distinct asset possibly qualifying as a structural component of real property.[118]

Example 17. A restaurant business, Farmer Jack's Chicken Chicken Chicken, installs a gas line running into one of their restaurant buildings in 2020.[119] **The purpose of the gas line is to provide fuel to the building's heating system.** Accordingly, the gas line is a structural component of an inherently permanent structure, and therefore constitutes real property.

In 2024, when Farmer Jack's is planning on selling the restaurant building and purchasing another building in a different location, the business can include the gas line in a like-kind exchange of the two buildings and thereby receives preferential tax treatment.

Example 18. Use the same facts as **Example 17,** except the **purpose of the gas line is to provide fuel to the building's fryers and ovens.** Because the fryers and ovens are not inherently permanent structures, the gas line is not a component of real property and therefore is not eligible for preferential tax treatment under a like-kind exchange.[120]

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113. Treas. Reg. §1.1031(a)-2.
114. *Tax Cuts and Jobs Act*, PL 115-97, §13303.
115. IRC §1031(a)(1).
116. TD 9935, 2020-52 IRB 1746.
117. Treas. Reg. §1.1031(a)-3(a)(1).
118. Treas. Reg. §§1.1031(a)-3(a)(2) and (4).
119. Modified from an example from TD 9935, 2020-52 IRB 1746.
120. Ibid.

Certain intangible assets are also treated as real property for purposes of a §1031 like-kind exchange. Such assets include the following.[121]

- Fee ownerships
- Co-ownerships
- Leaseholds
- Options to acquire real property
- Easements
- Stocks in cooperative housing corporations
- Shares in a mutual ditch, reservoir, or irrigation company[122]
- Land development rights

The regulations also identify intangible assets that are **not** considered real property for purposes of a §1031 like-kind exchange regardless of state or local law classification. Such assets include the following.[123]

- Stock (other than in cooperative housing corporations), bonds, or notes
- Other securities or evidence of indebtedness or interest
- Partnership interests (other than those with a valid IRC §761(a) election)
- Certificates of trust or beneficial interests
- Choses in action

CASH METHOD OF ACCOUNTING

Generally, the following entities **cannot** use the cash method unless they qualify as a **small business.**[124]

1. C corporations
2. Partnerships with one or more C corporations as a partner or partners
3. Certain trusts subject to tax on unrelated business income

The TCJA established a $25 million gross receipts test for determining whether activities qualify as small businesses eligible to use the cash method.[125] This test simplifies gross receipts determinations and increases the number of activities qualifying as small businesses.

> **Note.** Qualified personal service corporations, partnerships without C corporation partners, S corporations, and other pass-through entities may adopt the cash method of accounting regardless of whether they meet the gross receipts test if the cash method clearly reflects income and the entity is not a tax shelter.[126]

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121. Treas. Reg. §1.1031(a)-3(a)(5).

122. As described in IRC §501(c)(12)(A).

123. Treas. Reg. §1.1031(a)-3(a)(5).

124. IRC §§448(a), (c)(1), and (d)(6).

125. IRC §448(c)(1).

126. *Joint Explanatory Statement of the Committee of Conference* (p. 220). Dec. 18, 2017. U.S. House of Representatives. [docs.house.gov/billsthisweek/20171218/Joint Explanatory Statement.pdf] Accessed on May 29, 2024; IRC §448(b)(2).

The $25 million threshold is adjusted for inflation for tax years beginning after December 31, 2018.[127] For the 2024 tax year, the threshold for the gross receipts test is $30 million.[128] The gross receipts test is satisfied for a tax year if average annual gross receipts of the business for the 3-tax-year period that ends with the tax year preceding such tax year do not exceed the applicable threshold.[129]

> **Note.** For more information on the small business gross receipt test, see the 2018 *University of Illinois Federal Tax Workbook,* Volume B, Chapter 1: New Legislation — Business Concerns. This can be found at **uofi.tax/arc** [taxschool.illinois.edu/taxbookarchive].

QUALIFIED IMPROVEMENT PROPERTY[130]

The TCJA expanded the definition of qualified real property eligible for §179 expensing to include improvements to the interior of any nonresidential real property (defined as QIP). The following improvements are specifically identified as qualified real property.[131]

- Roofs
- Heating, ventilation, and air conditioning property
- Fire protection and alarm systems
- Security systems

QIP does **not** include the enlargement of a building or improvements to elevators, escalators, or the internal structural framework of a building.[132]

Due to a drafting error, language providing a 15-year recovery period for QIP was inadvertently omitted from the TCJA. Consequently, QIP placed in service after December 31, 2017, was recoverable over 39 years, rather than the 15-year period that was intended. The Coronavirus Aid, Relief, and Economic Security (CARES) Act passed in 2020 and clarified that QIP is 15-year property under MACRS and 20-year property under alternative depreciation system (ADS). As a result, QIP is eligible for immediate expensing under §179.[133]

> **Note.** For more information regarding QIP, see the 2018 *University of Illinois Federal Tax Workbook,* Volume B, Chapter 1: New Legislation — Business Concerns. This can be found at **uofi.tax/arc** [taxschool.illinois.edu/taxbookarchive].

127. IRC §448(c)(4).
128. Rev. Proc. 2023-34, 2023-48 IRB 1287.
129. IRC §448(c)(1).
130. *Tax Cuts and Jobs Act*, PL 115-97, §13101.
131. IRC §179(e)(2).
132. IRC §168(e)(6)(B).
133. *Coronavirus Aid, Relief, and Economic Security Act,* PL 116-136, §2307; IRC §179(d)(1)(B)(ii).

CORPORATE INCOME TAX RATE

The TCJA eliminated the graduated corporate tax rate structure and imposed a flat 21% income tax.[134] This flat tax rate also applies to personal service corporations.[135]

CORPORATE ALTERNATIVE MINIMUM TAX

The TCJA repealed the corporate alternative minimum tax (CAMT) in 2017.[136] However, the Inflation Reduction Act introduced a new CAMT upon its enactment in 2022.[137] This new CAMT imposes a 15% minimum tax on an applicable corporation's adjusted financial statement income (AFSI) over the corporate AMT foreign tax credit.[138] Corporations subject to the CAMT are those with $1 billion or more of average AFSI in the previous three years.[139] The tax applies to tax years beginning after December 31, 2022.[140]

Note. For more information on the CAMT, see the 2023 *University of Illinois Federal Tax Workbook,* Chapter 11: New Developments.

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134. IRC §11(b).

135. IRS Pub. 542, *Corporations*.

136. *Tax Cuts and Jobs Act*, PL 115-97, §12001.

137. *Inflation Reduction Act*, PL 117-169, §10101.

138. IRC §§55(b)(2) and 59(I).

139. IRC §59(k)(1)(B).

140. IRC §59(k)(1)(A).

APPENDIX

The following tables summarize the provisions of the TCJA and identify whether they are permanent or temporary.[141]

TEMPORARY PROVISIONS OF THE TCJA

Section	Description	Expiration Date
§11028	Tax relief for 2016 declared disasters, including early IRA withdrawal penalties relief and personal casualty losses AGI limitation relief	Expired after December 31, 2017
§11027	AGI threshold for itemized medical expenses decreased from 10% AGI to 7.5% AGI	Expired after December 31, 2018
§13804	Reduces the rate of excise tax on certain wine	Expired after December 31, 2019
§13805	Modifies the alcohol content level to 16% from 14% for application of excise tax rates	Expired after December 31, 2019
§13807	Reduces the excise tax rate for certain distilled spirits	Expired after December 31, 2019
§13808	Allows distillers to transfer spirits in approved containers that are not bulk containers without paying tax	Expired after December 31, 2019
§13201	Allows 100% bonus depreciation for property placed in service from September 27, 2017, to December 31, 2022, and phases down the deduction by 20% for most property placed in service each subsequent year, with the schedule for property with longer production periods extending another year	100% bonus expired after December 31, 2022, and completely phases out to zero after December 31, 2026
§11001	Modification of individual taxpayer income tax rates	Expires after December 31, 2025
§11011	QBID	Expires after December 31, 2025
§11021	Standard deduction increase	Expires after December 31, 2025
§11022	CTC increased to $2,000 and nonrefundable credit of $500 is created	Expires after December 31, 2025
§11023	Cash charitable contributions limit increased to 60% from 50%	Expires after December 31, 2025
§11024	Increase in contributions to Achieving a Better Life Experience (ABLE) accounts	Expires after December 31, 2025
§11025	Rollovers to ABLE accounts from IRC §529 qualified tuition programs without penalty	Expires after December 31, 2025
§11026	Tax benefits for certain members of the armed forces in the Sinai Peninsula of Egypt	Expires after December 31, 2025

141. *Tax Cuts and Jobs Act*, PL 115-97.

Section	Description	Expiration Date
§11031	Gross income excludes student loan discharges due to death or total and permanent disability	Expires after December 31, 2025
§11041	Eliminates personal exemption deductions and accordingly modifies wage withholding rules and requirements for filing a tax return	Expires after December 31, 2025
§11042	Limits the itemized deduction for SALT to $10,000	Expires after December 31, 2025
§11043	Limits home mortgage interest to apply only to mortgages for principal residences, to apply to mortgages up to $750,000, and to no longer apply to home equity loans	Expires after December 31, 2025
§11044	Limits personal casualty and left losses to apply only to federally declared disasters	Expires after December 31, 2025
§11045	Suspends miscellaneous itemized deductions subject to the 2% AGI limitation	Expires after December 31, 2025
§11046	Suspends overall limitation on itemized deductions	Expires after December 31, 2025
§11047	Suspends exclusion for qualified bicycle commuting reimbursement	Expires after December 31, 2025
§11048	Suspends exclusion for qualified moving expense reimbursement	Expires after December 31, 2025
§11049	Suspends the moving expenses deduction	Expires after December 31, 2025
§11050	Limits the deduction for wagering losses to the extent of gain arising from such transactions	Expires after December 31, 2025
§11061	Doubles the estate and gift tax exemption	Expires after December 31, 2025
§12003	Increases the individual AMT exemption thresholds	Expires after December 31, 2025
§20003	Mandates the Department of Energy draw down and sell crude oil during fiscal year 2026 and 2027 until deposits from such activity reaches $600 million	Expires after December 31, 2027
§11012	Limitation on excess business losses for noncorporate taxpayers	Expires after December 31, 2028 [142]
§20002	Limits the amount of distributed qualified outer continental shelf revenues	Expires after December 31, 2055

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142. The expiration was extended from January 1, 2025, to January 1, 2029, by the *Inflation Reduction Act,* PL 117-169, §13903(b).

PERMANENT PROVISIONS OF THE TCJA

Section	Description
§11001	Paid preparer due diligence requirements and penalties
§11002	Inflation adjustments are based on chained consumer price index (CPI)
§11032	IRC §529 plan funds may be used for tuition at elementary or secondary public, private, or religious schools
§11051	Repeals alimony and maintenance payments as deductions for payors and income for recipients for divorces occurring after December 31, 2018
§11071	Increases the time limit for contesting an IRS levy from nine months to two years
§11081	Repeals penalties for failure to maintain minimum essential health coverage under the Affordable Care Act
§12001	Repeals the CAMT (permanent, but reinstated by the passage of the Inflation Reduction Act)[143]
§12002	Modifies the AMT credit for corporations allowing the credit to offset regular tax liability and creating a refundable portion for tax years after 2017 and before 2022
§13001	Removes the graduated income tax rates for corporations for replacement with a flat 21% tax rate for tax years beginning after 2017
§13002	Reduces the 70% dividends received deduction to 50% and the 80% dividends received deduction to 65% for corporations
§13101	Modifies §179 expensing to increase the maximum amount to expense in a tax year, increase the phase-out thresholds, revise eligible qualified real property, and allow expensing for certain depreciable tangible personal property
§13102	Modifies small business accounting method rules, including expansion of which businesses can use the cash method of accounting, exempts certain taxpayers from being required to account for inventories, expands criteria for the exception to the uniform capitalization rules, and expands the exception from the requirement of using the percentage-of-completion method for small construction contracts
§13202	Increases the depreciation limits applying to luxury automobiles and personal-use property
§13203	Shortens recovery period for farm machinery or equipment (other than grain bins, cotton ginning assets, fences, or other land improvements) from seven to five years and repeals the requirement to use the 150% declining balance method for farm business property
§13204	Eliminates qualified leasehold improvement, qualified restaurant, and qualified retail improvement property definitions, and defines and applies the straight-line method to QIP
§13205	Requires farming businesses electing out of the limitation on the deduction for interest to use ADS for property with recovery periods of 10 or more years
§13206	Adjusts amortization rules and schedules for certain research and experimentation expenditures
§13207	Allows expensing of certain costs for replacing lost or damaged citrus plants by reason of casualty
§13221	Revises certain special rules for taxable years of inclusion
§13301	Limits the deduction for business interest
§13302	Modifies the NOL deduction by limiting it to 80% of taxable income, repealing carryback provisions, allowing indefinite carryforward of such losses, and allowing 2-year carryback for farming businesses (the CARES Act subsequently reinstated carryback provisions, albeit with modifications)[144]

143. *Inflation Reduction Act,* PL 117-169, §10101.

144. *CARES Act*, PL 116-136, §2303.

Section	Description
§13303	Limits like-kind exchange income deferral to qualified real property not held primarily for sale
§13304	Limits an employer's deduction of employee fringe benefits
§13305	Repeals the DPAD
§13306	Prohibits deductions for certain fines, penalties, and other amounts incurred in violation of any law
§13307	Prohibits deductions for settlements and related attorney fees subject to nondisclosure agreements paid in connection with sexual harassment or sexual abuse
§13308	Prohibits deductions for local lobbying expenditures
§13309	Requires a 3-year holding period for certain net long-term capital gains for partnership interests in connection with performance of services
§13310	Prohibits the deduction of cash, gift cards, and other non-tangible personal property paid for an employee achievement award
§13311	Prohibits the deduction for living expenses incurred by members of Congress
§13312	Modifies the exclusion from income of certain contributions by governmental entities that are not treated as contributions to capital
§13313	Repeals the rollover of publicly traded securities gain into specialized small business investment companies
§13314	Excludes certain patents, inventories, models, designs, secret formulas, or taxpayer-created processes from the definition of a "capital asset"
§13401	Reduces the tax credit for clinical testing expenses incurred in certain drug and rare disease testing from 50% to 25%
§13402	Limits the 10% rehabilitated buildings credit to apply only to certified historic structures
§13403	Creates an employer credit for paid family and medical leave under IRC §45S
§13404	Repeals the authority to issue tax-credit bonds and direct-pay bonds
§13501	Establishes the treatment of gains or losses of foreign persons from selling or exchanging interests in partnerships engaged in trade or business within the United States
§13502	Modifies the definition of "substantial built-in loss" arising from transfers of partnership interests to include losses of more than $250,000 if the partnership assets were sold for cash equal to their FMV immediately after the transfer
§13503	Modifies the basis limitation on a partner's distributive share of a partnership loss to include such share of partnership charitable contributions and taxes paid or accrued to foreign countries
§13504	Repeals the technical termination of partnerships rule
§13511	Repeals the operation loss deduction for life insurance companies and allows NOL deduction under IRC §172
§13512	Repeals the small life insurance company deduction
§13513	Revises the tax treatment of income or losses from a change in method of computing life insurance company reserves
§13514	Repeals the special rule for distributions to shareholders of a stock life insurance company from a pre-1984 policyholders surplus account

Section	Description
§13515	Modifies the proration rules for property and casualty insurance companies by replacing the 15% reduction with a 5.25% dividend of the highest corporate tax rate in effect
§13516	Repeals the special estimated tax payment rules for insurance companies
§13517	Modifies the rules for computing life insurance tax reserves for determining the taxable income of life insurance companies
§13518	Modifies the proration rule for reducing dividends received deductions with respect to untaxed income for life insurance companies
§13519	Extends the amortization period of policy acquisition expenses from 120 months to 180 months for insurance companies
§13520	Establishes reporting requirements for life insurance contract acquisitions
§13521	Establishes basis determination requirements of a life insurance or annuity contract
§13522	Eliminates from the transfer for valuable consideration rule reportable policy sales of life insurance contracts
§13523	Modifies discounting rules for property and casualty insurance companies by altering the interest rate used to discount unpaid losses, alters the computational rules for loss payment patterns, and repeals the election to use a historical loss payment pattern
§13531	Limits the deduction for Federal Deposit Insurance Corporation (FDIC) premiums for financial institutions with consolidated assets exceeding $10 billion
§13532	Repeals the exclusion for advance refunding bonds
§13541	Expands qualifying beneficiaries of an electing small business trust (ESBT) to include nonresident aliens
§13542	Modifies the charitable contribution deduction rules for ESBTs to follow rules applicable to individuals as opposed to trusts except for including trust administration expenses in determining AGI for such purposes
§13543	Modifies the tax treatment for S corporation to C corporation conversions
§13601	Repeals the performance-based compensation and commission exceptions, modifies the definition of "covered employee" and expands the definition of "publicly held corporation" for purposes of the deduction for covered employee compensation of a publicly held corporation of salaries not exceeding $1 million per year
§13602	Imposes an excise tax on excess tax-exempt organization executive compensation
§13603	Allows qualified employees to elect to defer income attributable to certain stock transferred to the employee by an employer for income tax purposes
§13604	Increases the excise tax imposed on the value of stock compensation held by insiders of an expatriated corporation from 15% to 20%
§13611	Repeals the rule allowing IRA contributions to one type of IRA to be recharacterized as a contribution to the other type of IRA
§13612	Modifies rules applicable for length of service award plans (LOSAP) by increasing the limit on accruals required for such plans for volunteers to be exempt from deferred compensation plan treatment, increasing the limit on plan accruals from $3,000 to $6,000, and providing a cost-of-living adjustment to such limits after 2017

Section	Description
§13613	Extends the rollover period for certain plan loan offset amounts to be contributed to an eligible retirement plan
§13701	Imposes a 1.4% excise tax on certain private colleges' and universities' NII
§13702	Requires tax-exempt organizations with two or more unrelated trades or businesses to calculate unrelated business taxable income separately for each activity
§13703	Increases unrelated business taxable income by certain fringe benefit expenses that are not deductible
§13704	Repeals the deduction for expenditures for college athletic event seating rights
§13705	Repeals the substantiation requirements exception for certain contributions reported by the donee organization
§13801	Excludes the aging periods for beer, wine, and distilled spirits from the production period for purposes of the uniform interest capitalization rules
§13802	Lowers the excise tax rate on beer to $16 per barrel on the first six million barrels brewed or imported
§13803	Allows the transfer of beer between bonded facilities without payment of tax if specified requirements are met
§13806	Specifies the definition for "mead" and "low alcohol by volume wine" eligible to be taxed at the lowest applicable rate for still wine
§13821	Modifies the tax treatment of Alaska Native Settlement Trusts
§13822	Exempts certain payments for management of private aircraft from excise tax imposed on taxable transportation by air
§13823	Authorizes the designation of opportunity zones in low-income communities for tax incentives for investments in such communities
§14101	Establishes a deduction for a foreign-source portion of dividends received by domestic corporations from specified 10% owned foreign corporations
§14102	Establishes special rules for sales or transfers involving specified 10% owned foreign corporations
§14103	Establishes special rules for the tax treatment of deferred foreign income upon transition to participation exemption system of taxation
§14201	Requires the inclusion in gross income of global intangible low-taxed income for shareholders of any controlled foreign corporation (CFC)
§14202	Establishes a deduction for domestic corporations for specified portions of the corporation's foreign-derived intangible income and global intangible low-taxed income
§14211	Repeals provisions that treat foreign base company oil related income as subpart F income
§14212	Repeals the requirement for United States shareholders of CFCs to include a pro rata share of previously excluded subpart F income in their reported income for the tax year
§14213	Modifies the stock attribution rules in determining the status as a CFC

Section	Description
§14214	Modifies the definition of a U.S. shareholder under subpart F to include any U.S. person who owns 10% or more of the total value of shares of stock of a foreign corporation
§14215	Eliminates the requirement that a corporation must be controlled for 30 days before subpart F inclusions apply
§14221	Modifies terms and valuation methods applying to transfers of foreign intangible property, thus limiting income shifting
§14222	Disqualifies deductions for any disqualified related party amount paid or accrued in hybrid transactions or with hybrid entities
§14223	Denies reduced rates for qualified dividends for shareholders who receive dividends from a surrogate foreign corporation
§14301	Repeals the deemed-paid credit with respect to dividends received by a domestic corporation owning 10% or more of the voting stock of a foreign corporation, while allowing a limited credit for certain foreign taxes paid
§14302	Requires foreign branch income to be allocated to a specific foreign tax credit basket
§14303	Requires the allocation of income partly earned outside of the United States between production activities in and outside of the United States
§14304	Establishes an election to increase the percentage of domestic taxable income offset by any pre-2018 unused overall domestic loss treated as foreign source income
§14401	Establishes a base erosion and anti-abuse tax to which certain large corporations are subject
§14501	Modifies the exception from passive foreign investment company rules for insurance businesses by focusing on its insurance liabilities for determining whether it is predominantly engaged in an insurance business
§14502	Repeals the FMV method in allocating and apportioning interest expense and replaces with it with using the adjusted bases of assets to determine such allocations and apportionment
§20001	States the Secretary of the Interior must establish and administer an oil and gas program in and from the Coastal Plain of the Arctic National Wildlife Refuge in Alaska