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Approaching the cliff: Tax policy and the 2024 elections

September 3, 2024

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Introduction

With nominating conventions behind them and the presidential campaign now moving into high gear post-Labor Day, the two leading contenders in the race for the White House—Vice President Kamala Harris, who became the Democratic Party's standard bearer after President Joe Biden withdrew from the contest in July, and former President Donald Trump, who Republicans have tapped to run for a second term in the Oval Office—have begun to make their final case to voters ahead of the November 5 general election.

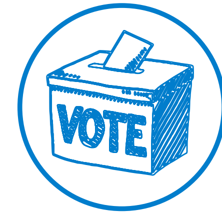
Throughout the primary election season, both parties presented their respective tax policy arguments largely in broad strokes and focused chiefly on disagreements over the Tax Cuts and Jobs Act of 2017 (TCJA, P.L. 115-97), the signature legislation of the Trump administration that moved through a Republican-controlled Congress under fast-track budget reconciliation protections. That law fundamentally changed the tax treatment of US-based multinationals, lowered corporate and personal tax rates, doubled the child tax credit, and broadened the tax base for both businesses and individuals. The bulk of the TCJA's corporate changes are permanent law; however, because of long-term fiscal constraints baked into the budget reconciliation process—namely, that legislation moved under the special parliamentary procedure cannot increase the deficit in the years beyond the budget resolution that includes the underlying reconciliation instructions—Congress opted to make many of the provisions on the individual side of the tax code temporary, with sunset dates at the end of 2025. Lawmakers also included revenue raising provisions with delayed effective dates, some of which have since come into effect, as well as other changes that will raise further revenue from multinational corporations and are scheduled to take effect at the end of next year.

All of this sets up the prospect of a massive fiscal cliff for the next White House and the next Congress as they grapple with how to address the pending expiration of marquee TCJA provisions such as reduced income tax rates for individuals, increased exemption amounts for the individual alternative minimum tax and the estate and gift tax, the doubled child tax credit, the increased standard deduction, and the 20% deduction for passthrough business income. (See the tables beginning on page 15 for a list of all the lapsing TCJA provisions lawmakers will have to contend with next year.) The nonpartisan Congressional Budget Office (CBO) estimated in May that the 10-year cost of permanently extending all of these provisions will come in at $4.6 trillion—a $1.1 trillion increase from similar projections the agency issued in 2023. Adding to the magnitude of the challenge facing Congress, there are also many non-TCJA tax provisions expiring next year, such as the new markets tax credit and the lookthrough rules for controlled foreign corporations in section 954(c)(6).

Approaching the cliff: Tax policy and the 2024 elections offers an overview of how Vice President Harris and former President Trump likely would address the expiring TCJA provisions, based on their stated positions and the planks in their respective party platforms. It also discusses additional tax proposals the two candidates have released over the course of the campaign. Both candidates may reveal additional details about where they stand on tax policy between now and November.

As we contemplate the direction in which the two candidates propose to take tax policy, it is important to note that tax legislation generally originates in Congress, not the White House, so any new tax laws enacted in a Harris administration or in a second Trump administration will necessarily also carry the imprimatur of the legislative branch with its many competing interests and priorities. With that in mind, this report also considers how the next president's tax policy ambitions—including the extent to which revenue raisers are used to offset the cost of any TCJA extensions and other proposed tax relief—are likely to be shaped by the make-up of the incoming 119th Congress.

Kamala Harris's tax agenda



Since she became the presumptive Democratic nominee in July and formally accepted her position at the top of the ticket at the party's national convention in August, Vice President Harris has not released a detailed, comprehensive tax plan; however, the official Democratic Party platform and the signals that Harris and her campaign staff have sent during the run-up to the convention make it clear that she intends to draw from—and in some cases build on—the policies advanced by Joe Biden.

What's familiar

Importantly, campaign officials confirmed early on that Harris will honor President Biden's pledge to allow the expiring TCJA tax breaks to sunset for taxpayers with income greater than $400,000 ($450,000 for married taxpayers filing jointly) and remain in place for those with incomes below these thresholds.[1]

In remarks at an August 16 campaign event in Raleigh, North Carolina, to highlight an economic agenda that she said will emphasize "building up our middle class," the vice president also reiterated her support for the family-focused tax relief provisions that have been priorities of the Biden-Harris administration, including permanent extensions of the expanded child tax credit and the expanded earned income tax credit (EITC) that were included in the pandemic-era American Rescue Plan Act of 2021 (P.L. 117-2), but expired at the end of that year. The American Rescue Plan increased the child tax credit from $2,000 per child to $3,600 per child ($3,000 for children aged 6 through 17), made it fully refundable, and allowed taxpayers to elect to receive the benefits as advanceable monthly payments rather than waiting to claim them when filing a tax return in the following year. It also expanded the EITC for taxpayers with no qualifying children and allowed taxpayers to use prior-year income in computing the credit in cases where a taxpayer's earned income in the current taxable year has decreased.

The Democratic platform affirms Harris's stance on the TCJA and the enhanced child tax and earned income tax credits. It also calls for permanent extensions of the new markets tax credit and the enhanced premium tax credit for individuals who purchase health insurance on one of the Affordable Care Act exchanges.

Harris has not publicly discussed specific revenue provisions to pay for any TCJA extensions or other middle-class tax relief, but in her campaign speeches she has consistently inveighed against "tax breaks [for] billionaires and big corporations," an echo of President Biden's calls to shift more of the tax burden to these segments of the tax base. The Democratic platform, though, invokes a host of now-familiar revenue offsets from various Biden-Harris administration budget blueprints, including a proposal to increase the corporate income tax rate to 28% (from 21%)—something that Harris's campaign staff has confirmed that she endorses.[2]

Other notable Biden-Harris revenue proposals cited in the Democratic platform include quadrupling the excise tax on stock buybacks, imposing additional limits on deductions for "excessive" employee remuneration, implementing a Pillar Two-compliant global corporate minimum tax regime, eliminating many current-law incentives available to the fossil fuel industry, tightening the depreciation rules for corporate-owned jets, repealing stepped-up basis, taxing capital gain and dividend income at ordinary rates for high-income individuals, taxing carried interest at ordinary income rates, eliminating like-kind exchanges, and imposing a 25% minimum tax on the income—including unrealized gains—of taxpayers with wealth over $100 million. (A detailed discussion of the revenue proposals in President Biden's most recent budget package—for fiscal year 2025—is available from Deloitte Tax LLP.)

What's new

Harris in recent weeks has proposed a few new tax relief provisions intended to benefit working- and middle-class families, and her campaign staff has indicated that more proposals are in the works.

Credit for newborns: Building on some of the family tax incentives advanced during the Biden-Harris administration, Harris used the August 16 rollout of her economic agenda to propose a new tax credit of up to $6,000 for low- and moderate-income parents of newborn children (from birth through age 1). She did not provide additional details during her speech, such as the income thresholds to determine eligibility for the credit or whether any phase-outs would apply as income rises above specified levels. Campaign staff told reporters, however, that, like the American Rescue Plan's expanded child tax credit, this proposed new credit would be refundable and available in advanceable monthly installments.[3]

Tax incentives for affordable housing construction, first-time home buyers: Harris vowed during her Raleigh speech to expand the nation's affordable housing stock by 3 million units. Although she did not mention specific tax policies aimed at meeting that goal, a subsequent news release from her campaign stated, without providing additional detail, that she intends to propose a new tax credit for developers who build new housing units that are priced to attract first-time home buyers. The release also noted that she supports proposals in previous Biden-Harris administration budget blueprints to expand the current-law low-income housing tax credit and create a new "Neighborhood Homes Credit."[4]

Harris also promised in very general terms during her remarks in Raleigh to provide up to $25,000 in down payment assistance to certain first-time home buyers. According to her campaign release, this would combine into one program two separate proposals included in earlier Biden-Harris budget packages: a $10,000 tax credit plus additional nontax assistance for eligible first-time buyers.

It is unclear whether Harris also intends to pursue a separate Biden-Harris budget proposal for a temporary, refundable credit of up to $10,000 for certain individuals who sell their current homes. (The administration explained in the "Green Book" accompanying its fiscal year 2025 budget release that this proposal is intended to provide an incentive to current owners who likely would be giving up a low mortgage rate when they sell a starter home and taking on a higher-rate mortgage when they purchase a "move-up" property.)

Tax treatment of tip income: At a campaign event in Las Vegas, Nevada, on August 10, Harris proposed to "eliminate taxes on tips for service and hospitality workers"—an idea first put forward by President Trump in June. She has not provided any additional details on the proposal since that initial announcement. Notably missing is any mention of whether it would apply to both income and employment taxes or to income taxes only. Her campaign staff has indicated, however, that the tax exemption for tip income likely would be paired with a proposed increase in the federal minimum wage.[5]

What's changed since 2019

Harris's overall embrace of President Biden's tax policy vision suggests that some of her positions may have moderated since her first run for the presidency in the 2020 election cycle, when she called for, among other things, increasing the corporate tax rate to 35%, allowing TCJA tax provisions to expire for households with income greater than $100,000, and imposing taxes on certain financial transactions to pay for a "Medicare for All" program.[6] (She withdrew from the Democratic primary race in late 2019 before votes were cast in any state primaries or caucuses.)

Proposals such as these are generally more progressive than the ones she and her running mate, Minnesota Gov. Tim Walz, are promoting on the campaign trail. There are open questions about whether some of these currently shelved policy ideas might resurface in a Harris-Walz administration, but if they were to appear in a subsequent budget blueprint, they would be unlikely to advance in Congress unless Democrats win control of both the House and Senate this November or in the 2026 congressional midterm elections.

One of Harris's earlier proposals that does thematically align with the kinds of family-friendly measures that emerged during the current administration—and with her just-proposed tax credit for parents of newborns—is the Livable Incomes for Families Today (LIFT) Act, a measure she sponsored while she was in the Senate that would provide a refundable tax credit for certain low- and moderate-income individuals. The credit amount would be capped at $3,000 for single taxpayers and $6,000 for joint filers, and, at the taxpayer's election, would be available in advanceable monthly installments.

Donald Trump's tax agenda

Former President Trump, like his Democratic opponent, also has not released a detailed tax policy agenda. As expected, however, he has called for making the TCJA permanent—a position that has become a plank in the official GOP platform adopted by the Republican National Committee at its presidential nominating convention in July.

Corporate tax rates, tariffs

The GOP platform does not mention Trump's calls in recent months for a further reduction in the corporate income tax rate, although it does state—without elaborating—that the party would support "additional tax cuts" beyond the ones the document specifically cites.

The extent of any possible rate cut that might be under consideration is unclear, given that Trump has not yet released a formal proposal. He reportedly told a group of business leaders in June that he would like to see a corporate rate of 20%,[7] but he stated in a subsequent interview with *Bloomberg News* that he would support a 15% rate.[8]

The GOP platform endorses the former president's call for a more stringent tariff regime, stating that the party "will support baseline tariffs on foreign-made goods," but it makes no mention of Trump's suggestion during a meeting with House and Senate Republicans in June that Congress should consider tariffs as a replacement for some of the revenue currently generated by income taxes.[9] The former president has called for across-the-board tariffs of 10 to 20% on all imported goods, with even higher rates imposed on items imported from China.[10]

No tax on tips

Echoing comments that Trump made at a June campaign rally in Las Vegas,[11] the platform endorses "eliminating taxes on tips" for individuals working in the restaurant and hospitality industries. However, it does not address how such a proposal would work—for example, whether the exemption would apply only to federal income taxes or also would apply to employment taxes. (As already noted, Vice President Harris has likewise called for exempting tip income from taxation without providing such specifics.)

Tax treatment of Social Security benefits

Since the GOP convention and the adoption of the party platform, the former president also has proposed to eliminate taxes on Social Security benefits.[12] Under current law, individuals with a combined income (which includes adjusted gross income, nontaxable interest, and 50% of Social Security income) between $25,000 and $34,000 pay income taxes on up to 50% of their Social Security benefits, while those making more than $34,000 must pay taxes on up to 85% of benefits. For joint filers, those thresholds are $32,000 and $44,000. None of these thresholds are indexed for inflation.

To date, the Trump campaign has provided no additional details around the proposal—including how his administration would replace the forgone revenue or mitigate the impact of the proposed exemption on the dwindling trust funds that support Social Security and Medicare. (Income taxes on Social Security benefits provide a revenue stream for both of these trust funds.)

Other tax proposals

The GOP platform makes passing references to three other proposed tax incentives from the former president that, to date, have not figured prominently in his campaign rhetoric: expanding current benefits for tax-preferred section 529 education savings accounts (particularly by making them available for families that home-school their children), creating a new credit for first-time home buyers, and creating a new credit for family caregivers.

Pressure for offsets in 2025 (no matter who wins)

As already noted, Vice President Harris and congressional Democrats maintain that any extensions of the TCJA tax cuts must be offset—primarily with tax increases on large corporations and upper-income individuals—and they would have dozens of revenue-raising proposals from Biden-Harris budget blueprints at the ready if they control the tax policy agenda next year.

Democrats included many of these revenue offsets in the expansive Build Back Better legislation that cleared the House under budget reconciliation rules in 2021 but later stalled in the Senate, where it was unable to gain unified support within the very narrow Democratic majority. (A detailed discussion of the tax provisions in the House-approved Build Back Better legislation is available from Deloitte Tax LLP.) A far more limited package—rechristened the Inflation Reduction Act (P.L. 117-169)—ultimately cleared both chambers in a Democratic-controlled Congress in 2022 under fast-track budget reconciliation protections without any support from Republicans.

Former President Trump has not thus far discussed how, or even whether, he intends to pay for some or all of the cost of renewing the expiring TCJA provisions. But if he wins a second term in the White House, he is likely to face pressure from Congress—including from some Republican lawmakers—to include revenue offsets as part of a larger tax plan. House Ways and Means Committee Chairman Jason Smith, R-Mo., appeared to open that door when he stated at a legislative seminar sponsored by BakerHostetler in May that there are Republican lawmakers who believe the corporate tax rate cut in 2017 may have been too deep, and who now may be willing to buck what has been regarded historically as GOP orthodoxy and consider an increase in the rate as a viable revenue-raising option for a future tax bill.[13] It's worth noting that one GOP Senate taxwriter—Tom Tillis of North Carolina[14]—and one member of the ultraconservative House Freedom Caucus—Chip Roy of Texas[15]—have since publicly stated that they would be open to a corporate rate increase.

Another potential source for Republicans seeking revenue offsets is the clean energy tax incentives in the Inflation Reduction Act. Republican Sen. Charles Grassley of Iowa, who sits on both the Finance and Budget committees, suggested at a recent Budget Committee hearing that unwinding those provisions, particularly those related to electric vehicles, "could net hundreds of billions in savings."[16] (As discussed in more detail below, however, not all Republicans may be amenable to repealing those provisions.)

Republicans also may seek further clawbacks of the special mandatory funding allocated to the IRS (through 2032) under the Inflation Reduction Act to enhance its compliance efforts. (The original funding amount of $80 billion over 10 years—which included separate allocations for enforcement, business systems modernization, and improvements to taxpayer services—was trimmed by $20 billion on a bipartisan basis in the fiscal year 2024 government funding law. The Biden-Harris budget blueprint for fiscal year 2025 proposes to backfill that reduction and extend the revenue stream through 2034.)

Worsening cost and deficit outlook

One potential approach to addressing the expiring TCJA provisions—namely, extending them without regard to the deficit impact—seems like something that would have more difficulty getting traction in 2025 than might have been the case previously.

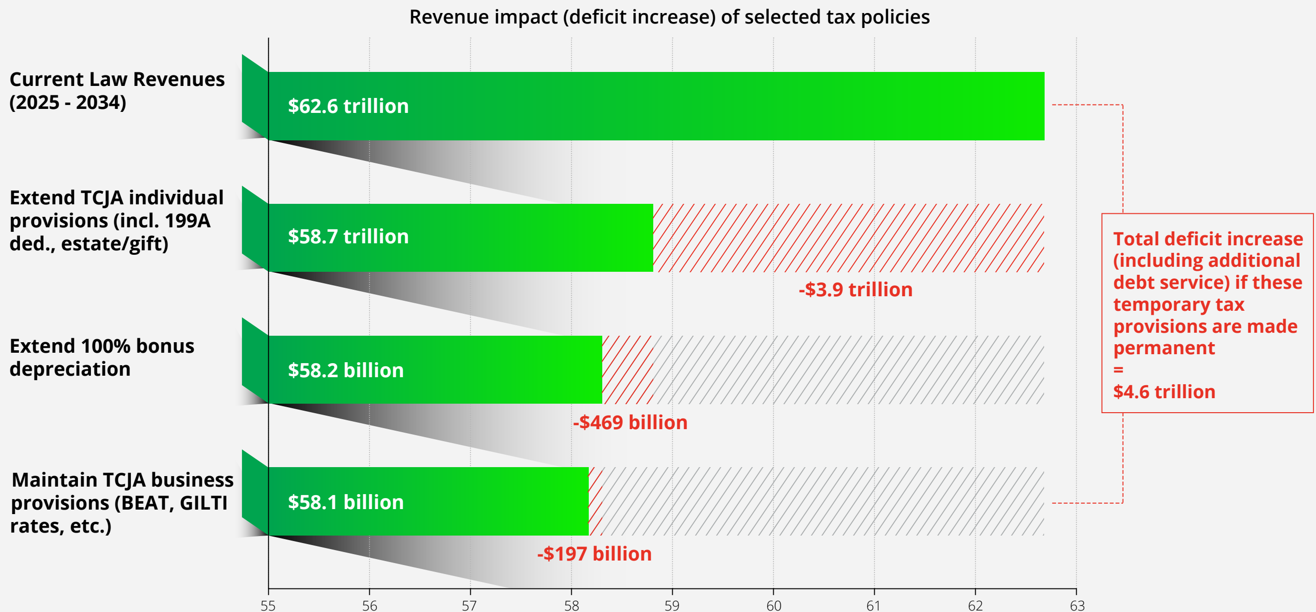
There was a time when many in Congress—on both sides of the aisle—were largely indifferent to deficit increases. Although lawmakers may have expressed concern about the burden being heaped on future generations, it was generally the case that Democrats continued to pursue unpaid-for spending legislation and Republicans continued to offer unoffset tax cuts. That era may be over, however. The current Congress, including House Republicans, seems more willing to set aside other tax policy goals in the name of fiscal discipline, and if that mindset holds into next year, the implications could be profound.

There are several important reasons why revenue raisers may well be on the table in the TCJA discussions no matter how power is parceled out in Washington in 2025.

An expanding price tag: First and foremost, the sheer cost of extending the expiring TCJA provisions—$4.6 trillion over 10-years, a figure that will get even larger when the 10-year budget window shifts forward early next year—may be too big to be ignored. Some Republicans contended in 2017 that the TCJA would generate enough economic growth to make it revenue neutral over the long term. But Congressional Budget Office Director Phillip Swagel stated at a Senate Budget Committee hearing in July that while the TCJA had some positive effects on the larger US economy, "by far it did not pay for itself, and the same would apply to an extension of the 2017 Act."[17]

And the list of imminently expiring tax provisions doesn't end with the TCJA. Lawmakers also will have to consider how to pay the tab for a swath of traditional tax "extenders" provisions enacted outside of the TCJA that are also set to expire in 2025, plus about a dozen others—mainly in the energy sector—that are due to sunset at the end of 2024. (See the tables beginning on page 21 for a list of those provisions.)

Extending temporary TCJA tax provisions would worsen the deficit outlook



Sources: Congressional Budget Office, An Update to the Budget and Economic Outlook: 2024 to 2034 (June 2024) and accompanying historical data

Increasingly gloomy fiscal projections: Any unease over the price tag for extending the TCJA is exacerbated by the increasingly dire long-term fiscal projections the CBO released in June, which show that the budget deficit for current fiscal year 2024—which runs through September 30—will clock-in at more than $1.9 trillion, or 6.7% of gross domestic product (GDP). By way of comparison, over the past five decades, the government has on average run deficits of about 3.7% of GDP.

This negative trend continues over the 10-year budget window, with cumulative deficits now projected to amount to almost $22.1 trillion over the next decade, an assumption that is especially rosy as it is predicated on Congress allowing various temporary provisions in the tax code—including those in the TCJA—to expire as scheduled under current law. (Before the 2008 financial crisis, the US had never incurred a deficit over $1 trillion.) CBO also projects that the debt held by the public—that is, federal debt not held in intragovernmental accounts such as the Social Security and Medicare trust funds—will rise by more than one-fifth over the next 10 years and exceed 122% of GDP by 2034.

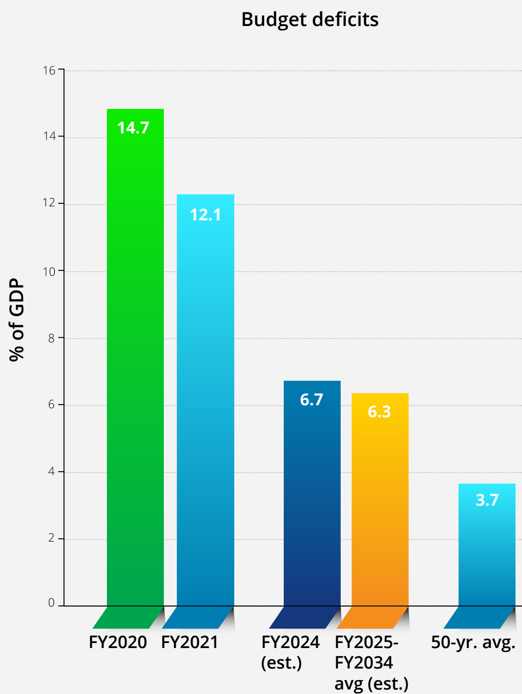
At its most basic level, mounting deficit and debt projections are the product of a large and growing mismatch between federal revenue and spending. On the revenue side, the CBO sees federal receipts averaging about 17.8% of GDP over the next 10 years, a bit north of the 17.3% of GDP average over the past five decades, but shy of the roughly 20% of GDP levels reached during the late 1990s when the federal budget was in balance.

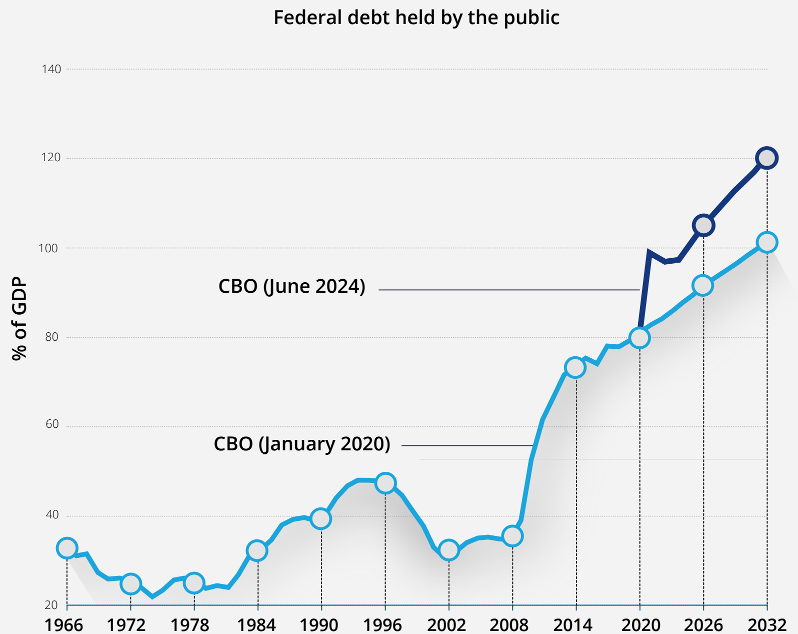
Meanwhile, on the spending side of the ledger, outlays—which have fallen sharply from their pandemic-era highs—are expected to resume their steady climb due to pre-existing demographic trends that are projected to increase the ranks of Social Security and Medicare beneficiaries and thus push up spending within those programs. Health care cost growth is also expected to continue to outstrip economic growth, thus pushing up that budgetary component as a share of GDP. By 2034, outlays would exceed 24% of the economy.

In contrast, spending over the last 50 years has averaged about 21% of GDP.

Setting fiscal records (and not the good kind)

Deficits, debt off their pandemic-era highs, but projected to surpass historical norms going forward

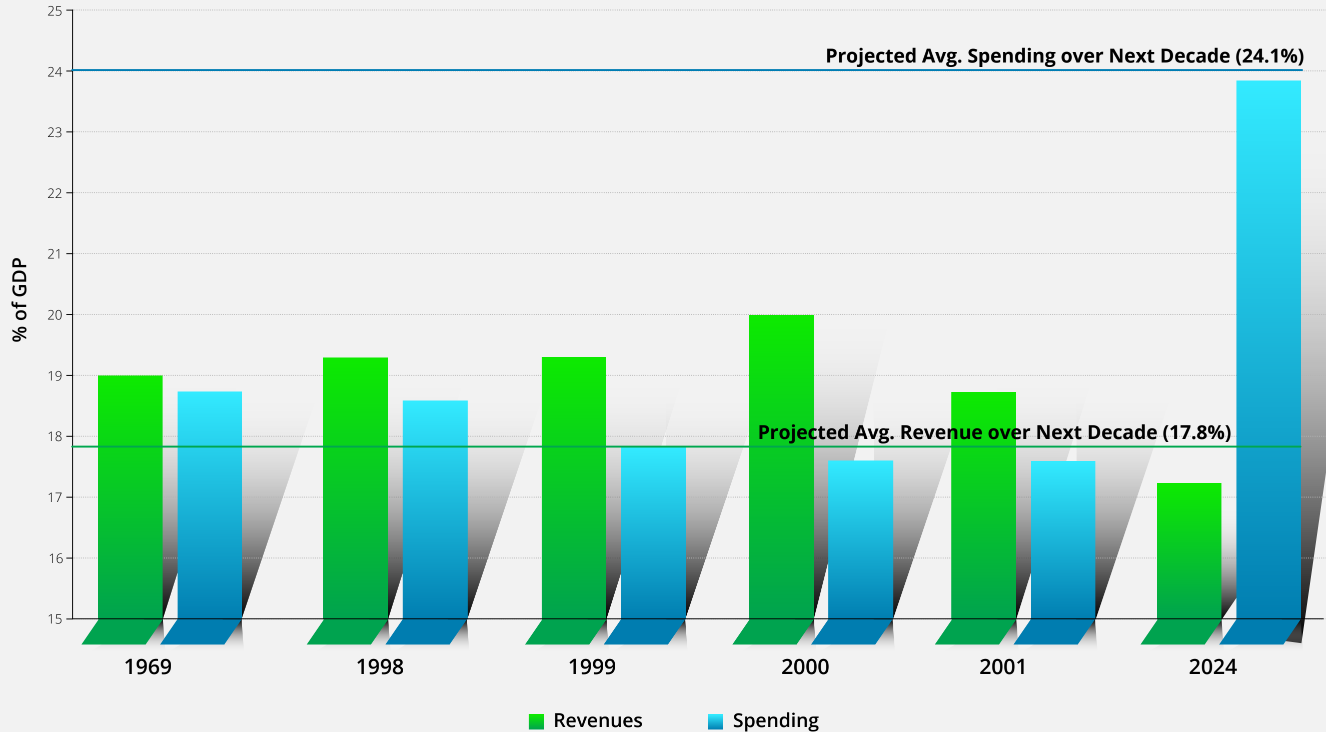




Sources: Congressional Budget Office, An Update to the Budget and Economic Outlook: 2024 to 2034 (June 2024) and accompanying historical data

The revenue/spending split viewed differently

Spending has been lower, and revenues higher when the budget has been in balance



Sources: Congressional Budget Office, An Update to the Budget and Economic Outlook: 2024 to 2034 (June 2024) and accompanying historical data

Is fiscal discipline back in fashion?

The combined effects of these pressures ***plus*** the need for the next presidential administration to act when the most recent suspension of the federal debt ceiling expires early next year suggests that the calls we're already hearing from lawmakers in both parties for increased fiscal discipline may only grow louder.

At this point, it seems highly unlikely that the incoming 119th Congress will be able to (1) find more than $4 trillion in spending cuts to pay for extending TCJA tax relief, (2) find more than $4 trillion in revenue offsets on the individual side of the tax code to offset extensions of expiring TCJA provisions for individuals and passthrough businesses, or (3) choose to deficit-finance a tax relief package of that magnitude (although this is at least possible if there is unified GOP control of Washington next year). Therefore, if Congress decides to pay for some or all of the TCJA extensions, corporate revenue raisers—in the form of a rate increase, base-broadening provisions, or both—may well be up for discussion, even though some Republican lawmakers continue to believe as a matter of principle that extensions of current law need not be offset.

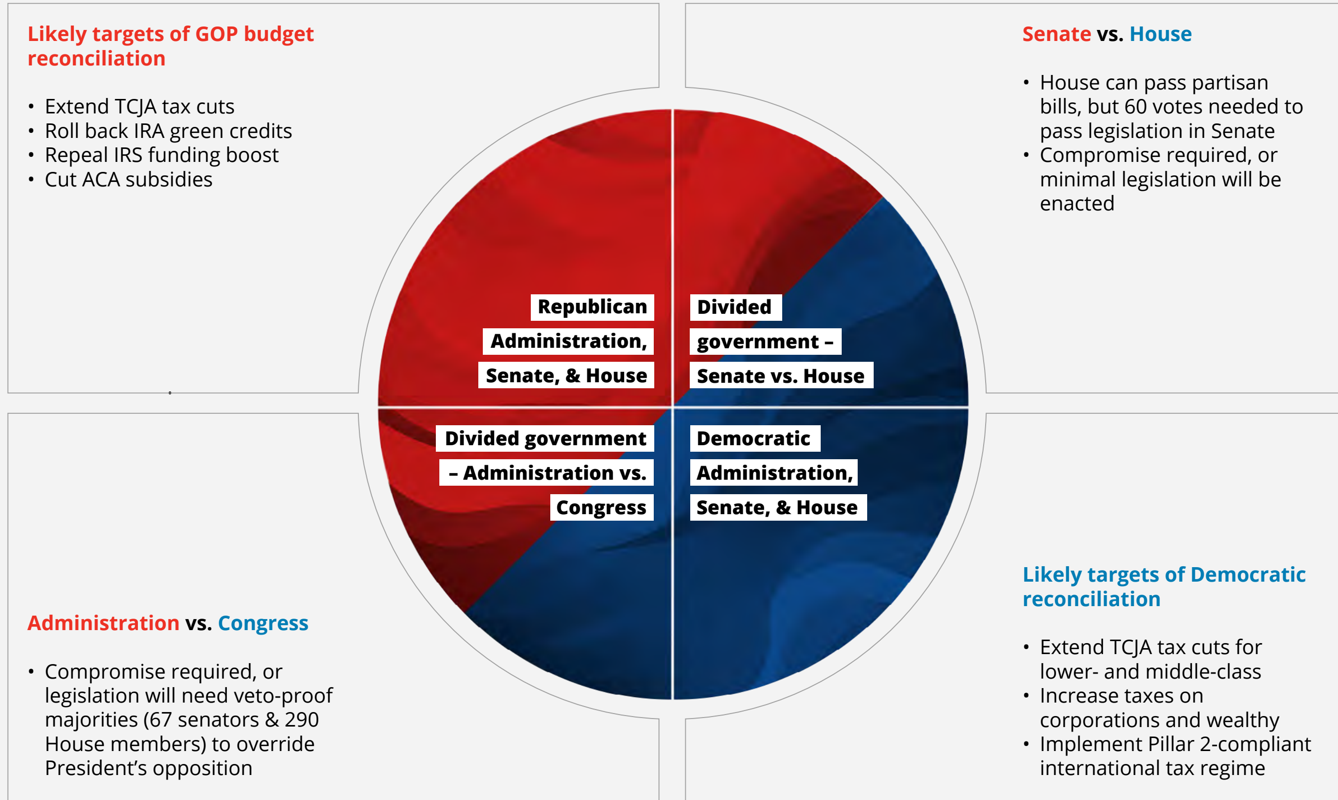
Outlook: Who's in the kitchen determines what's on the table

It is impossible to know right now who will be setting the tax policy agenda at the White House and on Capitol Hill in 2025. But it is worth remembering that no matter who is in power, getting tax code changes enacted into law requires willingness on the part of both the new presidential administration and congressional leadership to engage and seek to reach consensus.

Configurations of power

That process could prove difficult if the White House and Congress are controlled by two different parties as was the case during much of the Obama administration, for example, or if control of the House and Senate is split between Republicans and Democrats as it is currently and as it was during the second half of the Trump administration. The individuals in power next year will approach the tax policy debate with their own unique priorities and will further be influenced by who is negotiating with them and their expectations regarding what an acceptable deal would look like and whether one is even achievable.

Pitfalls of divided government: One notable recent example of the difficulties involved in moving tax legislation in a divided government is the fate of the Tax Relief for American Families and Workers Act (H.R. 7024), a measure negotiated by House Ways and Means Committee Chairman Jason Smith and Senate Finance Committee Chairman Ron Wyden, D-Ore., that would, among other things, provide temporary tax relief to businesses and short-term enhancements to the child tax credit.



The bill cleared the GOP-controlled House this past January with wide bipartisan support but subsequently stalled in the Democratic-controlled Senate, primarily due to opposition from several Republicans who objected to certain components of the proposed child tax credit enhancements and to the measure's proposed revenue offset (a provision to tighten the rules for claiming the pandemic-era employee retention tax credit in an effort to address perceived fraud within that program). An August 1 procedural vote to advance the bill won the support of most senators who were present to vote but it failed to gain the three-fifths supermajority—60 votes—required to break a filibuster and the measure now appears unlikely to be taken up again before the election.

Pitfalls of unified control: Even if one party—be it Democrats or Republicans—were to gain control of the White House and both chambers of Congress, its ability to implement its legislative agenda may well be constrained by the fact that its majorities in the House and Senate are likely to be very narrow. (Republicans currently hold a 9-vote majority in the House and Democrats currently hold a 2-vote majority in the Senate. These margins are not expected to expand significantly next year regardless of which party prevails in either chamber.) This could pose special problems in the Senate, given the three-fifth's supermajority required to move legislation under regular order. Under these circumstances, the majority party would almost surely turn to the budget reconciliation process—a powerful tool that can be invoked to side-step procedural obstacles and advance certain tax and spending legislation in the Senate. (As already noted, Democrats took that path to advance the Inflation Reduction Act through Congress in 2022 and Republicans did the same to pass the TCJA in 2017.)

But while the availability of budget reconciliation gives a party with unified control of the White House and Capitol Hill a potential edge in advancing its agenda, it does not guarantee legislative success or even a smooth path forward.

- For example, ideological divisions within a party could present challenges to a narrow majority seeking to coalesce around a single set of tax proposals. We saw this during the "all blue" power alignment in 2021 and 2022, when a handful of

Senate Democrats essentially forced party leaders and the Biden administration to pivot from the Build Back Better legislation approved in the House to the more narrowly focused Inflation Reduction Act. (Democrats controlled only 50 Senate seats in 2021 and 2022 and relied on Vice President Harris to tip the balance in their favor in the event of a tie vote, so they had to maintain absolute unity given that no Republicans were expected to support the emerging legislation.) If the power alignment shifts to "all red" next year, we could see similar fissures hamper Republican efforts to roll back some portions of the Inflation Reduction Act's clean energy tax title, given that a number of GOP lawmakers representing states and districts that have benefited from Inflation Reduction Act-funded projects have recently gone on record as opposing efforts to overturn tax incentives that ultimately will create jobs for their constituents, particularly when capital has already been committed to a project.

- Ideological issues aside, there also are complex rules that limit the types of legislative changes that can be made under the budget reconciliation process, which in turn may stymie either party's ability to pursue certain policy proposals. For example, the rules generally don't allow for major changes to Social Security—a restriction that could hinder any effort to eliminate taxes on those benefits in a budget reconciliation measure. They also require that every provision in such a bill result in a direct and non-incidental increase or decrease in federal revenue or spending, which can create some unusual procedural barriers.
- Finally, the reconciliation process can only be unlocked through House and Senate passage of a joint budget resolution that, as a political matter, lays out a party's long-term fiscal priorities and, as a technical and legislative matter, requires consensus on the budget impact of any reconciliation instructions that are included within its text. Given some of the internal divisions within both parties that have already been noted, Republicans and Democrats could face challenges taking this first step, even if one of the parties achieves an electoral "trifecta" this November and holds the White House and both chambers of Congress in 2025.

It remains possible—in theory, at least—that a party that sweeps the White House, House, and Senate may be seen as having a mandate, which could push reluctant members of the majority party to fall in line on certain policy issues that they might otherwise be less inclined to support. As a practical matter, though, such an outcome seems unlikely if those majorities number in the low single digits and party leaders can afford only a few defections from within their own ranks when advancing legislation that has no support from across the aisle.

Fading institutional memory

It's also important to remember that no matter how the House and Senate are configured next year, any large tax bill is likely to be shaped by the fact that many lawmakers with the institutional knowledge about the reasons for the changes made to the tax code in 2017—especially the rationale for the international reforms and for the much lower corporate rate—are no longer in Congress to guide the decision-making process. (See the table on page 23 for details on the turnover on the House Ways and Means and Senate Finance committees—particularly among Republicans—since 2017.)

In many cases, Republicans who fought for the lower corporate tax rate in 2017 have been replaced by more populist members who take their cues on ways to promote growth more from local small business leaders than from Fortune 500 CEOs. To cite one prominent example, Ohio Sen. JD Vance, who won the seat vacated by longtime GOP Sen. Rob Portman in 2022, and who is now former President Trump's running mate, framed the GOP's legislative priorities this way during his speech at the Republican National Convention on July 17:

"We're done catering to Wall Street," Vance said as he officially accepted his party's nomination to serve as vice president. "We'll commit to the working man," Vance said."

Taxwriting leaders mulling potential strategies

With 2025 looming, congressional taxwriters have already retreated to their respective partisan corners to explore possible strategies for addressing the pending expiration of the TCJA's temporary tax cuts and game out potential outcomes based on how voters choose to allocate power at both ends of Pennsylvania Avenue this November.

House Ways and Means Committee Chairman Jason Smith and Tax Subcommittee Chairman Mike Kelly, R-Pa., announced in late April that they had formed 10 "tax teams" of GOP taxwriters to "study key tax provisions from the TCJA that are set to expire in 2025 and identify legislative solutions that will continue to help families, workers, and small businesses." This effort to develop a tax plan that the whole Republican conference can support aligns with bullishness among the party's House leaders on an all-GOP government next year and their goal of moving quickly on a budget reconciliation package in the new Congress.

Senate Finance Committee ranking member Mike Crapo, R-Idaho, indicated in May that he has formed TCJA "working groups" of GOP taxwriters in that chamber, although he has not made public various details such as the number of groups, leadership and membership assignments, deliverables, or the specific topics they are covering.

Senate Finance Committee Chairman Ron Wyden, D-Ore., meanwhile, told reporters after a meeting of Finance Committee Democrats in June that he is working with his Democratic colleagues on the panel to "build a revenue menu to get good ideas" for offsetting the cost of any tax breaks that move through Congress next year. Although Wyden offered few details about the options Senate Democratic taxwriters may pursue, Finance Committee member Mark Warner, D-Va., told reporters following that meeting that Democrats will be looking beyond changes to the TCJA as they approach the fiscal challenges ahead:

"It's time to suit up and come up with the theories of the case rather than the normal 'it should be X rate or Y rate,'" he said.[18]

Democrats on the House Ways and Means Committee, meanwhile, reportedly have held closed-door meetings with Joint Committee on Taxation Chief of Staff Tom Barthold to review the expiring TCJA provisions and discuss various scenarios related to their potential extension or expiration. Ways and Means Committee ranking Democrat Richard Neal, D-Mass., told Bloomberg Tax in July that his members "want to understand the technical questions, where certain parts of the code are linked to other parts of the code."[19]

Watchwords for taxpayers: Evaluate, model, plan

Despite uncertainty over who will be leading the tax policy debate next year and the direction that future negotiations will take, significant tax law changes—including corporate-focused revenue increases—remain a real possibility. It is not too early to start evaluating any proposals being put forward or any options that may have surface appeal, modeling potential outcomes, and planning the appropriate actions to take if and when these proposals go from high-level plans and talking points to fully framed legislative policies with substance, effective dates, and, presumably, anti-avoidance rules.

Being nimble and not getting locked into any one theory of what will happen will be critical.

Tax Cuts and Jobs Act provisions expiring in 2025

The tables below compare the provisions in the Tax Cuts and Jobs Act of 2017 that are scheduled to expire at the end of 2025 with the pre-TCJA provisions that will take effect in 2026 without congressional intervention. They also include certain permanent TCJA provisions with phase-ins and phase-downs that are scheduled to take effect in 2026, as well as certain permanent taxpayer-unfavorable changes affecting businesses that took effect several years after the TCJA became law and that many lawmakers in both parties hope to reverse in their negotiations next year. Provisions within each category are listed in code section order.

Vice President Harris and congressional Democrats generally would like to allow these provisions to expire for taxpayers with income greater than $400,000 ($450,000 for joint filers) and to leave them in place for less affluent households. Former President Trump and congressional Republicans generally would like to extend the TCJA in its entirety.

Sources: Joint Committee on Taxation staff. *General Explanation of Public Law* 115-97 (JCS-1-18), Dec. 20, 2018; *Overview of the Federal Tax System as in Effect for 2024* (JCX-26-24), May 23, 2024; *Overview of the Federal Tax System as in Effect for 2017* (JCX-17-17), Mar. 15, 2017; *List Of Expiring Federal Tax Provisions 2024-2034* (JCX-1-24), Jan. 11, 2024.

Internal Revenue Service. Rev. Proc. 2023-34 (IRB 2024-38), Nov. 27, 2023; Rev. Proc. 2016-55 (IRB 2016-55), Nov. 7, 2016).

Congressional Research Service. *Reference Table: Expiring Provisions in the "Tax Cuts and Jobs Act" (TCJA, P.L. 115-97)*, Nov. 21, 2023.

Provisions affecting individuals

Item	TCJA provision	Scheduled change in 2026
Individual income tax rates (section 1(j))	7 brackets: 10%, 12%, 22%, 24%, 32%, 35%, and 37%; thresholds indexed annually for inflation Bracket threshold for top rate: AGI > $500,000 (for single taxpayers) and $600,000 (for joint filers), effective for 2018 ($609,350/$731,200 apply for 2024)	7 brackets: 10%, 15%, 25%, 28%, 33%, 35%, and 39.6%; thresholds indexed annually for inflation Inflation-indexed bracket threshold for top rate in 2017: AGI > $418,400 (single) and $470,700 (joint); would be adjusted for inflation in 2026 and annually thereafter
Child tax credit (section 24(h))	$2,000 credit per child under age 17 and $500 per nonchild dependent; phased out for AGI > $400,000 (joint) and $200,000 (all other filers); credit and phase-out amounts not indexed for inflation Maximum refundable credit: $1,400 per child, indexed annually for inflation ($1,700 for 2024); credit for nonchild dependent is nonrefundable	$1,000 credit per child under age 17; phased out for AGI > $75,000 for single taxpayers and $110,000 for joint filers; credit and phase-out amounts not indexed for inflation Maximum refundable credit: $1,000 (not indexed for inflation) No credit for nonchild dependents

Provisions affecting individuals

Item	TCJA provision	Scheduled change in 2026
Individual AMT exemption amount and phase-out threshold (section 55)	Exemption amounts of $70,300 (single) and $109,400 (joint), indexed annually for inflation ($85,700/$133,300 in 2024) Phase-out for alternative minimum taxable income > $500,000 (single) and $1 million (joint), indexed for inflation ($609,350/$1,218,700 for 2024)	Inflation-indexed exemption amounts in 2017: $54,300 (single) and $84,500 (joint); would be adjusted for inflation in 2026 and annually thereafter Inflation-indexed phase-out amounts in 2017: Alternative minimum taxable income > $120,700 (single) and $160,900 (joint); would be adjusted for inflation in 2026 and annually thereafter
Standard deduction of individuals (section 63(c)(7))	$12,000 (single) and $24,000 (joint), indexed for inflation ($14,600/$29,200 for 2024)	Inflation-indexed deduction amounts in 2017: $6,350 (single) and $12,700 (joint filers); would be adjusted for inflation in 2026 and annually thereafter
Miscellaneous itemized deductions: 2% floor (section 67(g))	Miscellaneous itemized deductions (such as investment/advisor fees) repealed through 2025	Miscellaneous deductions restored, subject to pre-TCJA 2%-of-AGI floor
Limitation on itemized deductions (section 68(f))	3% "Pease" limitation on itemized deductions repealed through 2025	3% Pease limitation restored Inflation-indexed limitation thresholds in 2017: AGI > $261,500 (single) and $313,800 (joint); would be adjusted for inflation in 2026 and annually thereafter
Deduction for personal exemptions (section 151(d)(5))	Personal exemption repealed through 2025	Personal exemption restored Inflation-indexed exemption amount for 2017: $4,050 per household member; would be adjusted in 2026 and annually thereafter Inflation-indexed exemption phase-out thresholds for 2017: AGI > $261,500 (single) and $313,800 (joint); would be adjusted in 2026 and annually thereafter
Deduction for qualified residence interest, suspension of deduction for home equity interest (section 163(h)(3)(F))	Interest deductible on first $750,000 ($375,000 married filing separately) of acquisition indebtedness on primary and secondary residences for debt incurred after Dec. 15, 2017 No deduction for home equity debt	Interest deductible on first $1 million of debt ($500,000 married filing separately) used to secure primary or secondary residence ***and*** first $100,000 of home equity debt
Deduction for state and local taxes (SALT) (section 164(b)(6))	SALT deduction capped at $10,000	Unlimited SALT deduction restored

Provisions affecting individuals

Item	TCJA provision	Scheduled change in 2026
Limitation on wagering losses (section 165(d))	Pre-TCJA, wagering losses sustained in a taxable year deductible only to the extent of the gains in the taxable year from such transactions TCJA provides (though 2025) that a deduction applies to the actual costs of wagers incurred by an individual ***and*** to other expenses incurred in connection with the individual's gambling activity	Wagering losses remain deductible only to the extent of wagering gains, but a deduction applies ***only*** to actual costs of wagers and ***not*** to other expenses incurred in connection with an individual's gambling activity
Deduction for noncompensated personal casualty losses (section 165(h)(5))	Repealed except for losses in federally declared disaster areas	Noncompensated losses deductible subject to 10%-of-AGI limitation
Percentage limitation on cash contributions to public charities (section 170(b)(1)(G))	Cash contributions deductible up to 60% of AGI	Cash contributions deductible up to 50% of AGI
Deduction for unreimbursed employment-related moving expenses (section 217(k))	No deduction allowed except for armed forces personnel moving pursuant to military orders	Deduction available for all employees, subject to a 2% of AGI limitation
ABLE account enhancements (section 529A)	Pre-TCJA law created tax-preferred savings accounts for payment of qualified disability-related expenses of a designated beneficiary, with contributions subject to various limitations Temporary TCJA enhancements make contributions eligible for the saver's credit; permit rollovers from qualified tuition programs; and permit account beneficiaries who work and earn income to contribute above the annual ABLE contribution limit	ABLE account enhancements repealed
Estate and gift tax exemption amounts (section 2010(c)(3)(C))	40% estate, gift, and generation-skipping tax; basic exclusion amount of $10 million per taxpayer, indexed for inflation ($13.61 million per taxpayer in 2024)	40% estate and generation-skipping tax; inflation-indexed basic exclusion amount of $5 million per taxpayer ($5.49 million in 2017) would be adjusted in 2026 and annually thereafter

Provisions affecting individuals

Item	TCJA provision	Scheduled change in 2026
Combat zone tax benefits for members of the Armed Forces in the Sinai Peninsula (TCJA, section 11026)	Sinai Peninsula designated as a combat zone, entitling US armed forces members serving there (and their families) to combat zone tax benefits including: (1) an exemption from income and employment taxes on certain military pay received during any month in which the member served there; (2) an exemption from income taxes during the year that the member dies and the year prior while serving there; and (3) special estate tax rules for death occurring there	Combat zone designation for Sinai Peninsula expires, along with related tax benefits

Corporate and business-focused tax provisions

Item	TCJA provision	Scheduled change in 2026
Provisions affecting US-based multinationals		
Base erosion and anti-abuse tax (BEAT) rate (section 59A)	10% BEAT rate applies through 2025	BEAT rate increases to 12.5%
Deduction percentage for global intangible low-taxed income (GILTI) (section 250(a)(3))	50% GILTI deduction, for effective tax rate of 10.5-13.125% (variation based on foreign tax credits)	Deduction reduced to 37.5%, for effective tax rate of 13.125-16.4% (variation based on foreign tax credits)
Deduction percentage for foreign-derived intangible income (FDII) (section 250(a)(3))	FDII deduction of 37.5%, for effective tax rate of 13.125%	FDII deduction reduced to 21.875%, for effective tax rate of 16.406%
Provisions affecting corporations and businesses generally		
Treatment of business interest payments (section 163(j))	Adjusted taxable income for purposes of the 30% limitation on deductions of net business interest expense generally must be calculated based on earnings before interest and taxes (EBIT) beginning in 2022	No scheduled change to current law; however, lawmakers in both parties have expressed interest in reversing the TCJA provision and permitting adjusted taxable income to be calculated based on earnings before interest, taxes, depreciation, depletion, and amortization (EBITDA)
100% bonus depreciation (section 168(k))	100% rate phased down in increments of 20 percentage points beginning in 2023 (60% rate in effect for 2024, reduced to 40% for 2025, and 20% for 2026)	Bonus depreciation phased out for property placed in service after Dec. 31, 2026; however, lawmakers in both parties have expressed interest in reversing the TCJA provision and reinstating the 100% bonus depreciation rate
Treatment of R&D expenditures (section 174)	R&D expenditures paid or incurred in taxable years beginning after Dec. 31, 2021, are subject to capitalization and amortization over 5 years for research conducted within the US and 15 years for research conducted outside the US	No scheduled change to current law; however, lawmakers in both parties have expressed interest in reversing the TCJA provision and returning to prior law, which allowed immediate deduction for R&D expenditures
Provisions affecting passthrough businesses		
Qualified business income deduction (section 199A(i))	20% deduction for domestic business profits, subject to certain limitations	Deduction repealed; passthrough income taxed at taxpayer's individual rate

Compensation and benefits provisions

Item	TCJA provision	Scheduled change in 2026
Employer credit for paid family and medical leave (section 45S(i)) **Note:** This provision was enacted in TCJA through 2019; extended through 2020 in the Further Consolidated Appropriations Act, 2020 (P.L. 116-94); and extended again through 2025 in the Consolidated Appropriations Act, 2021 (P.L. 116-260)	Temporary business credit for employers that allow all qualifying full-time employees at least two weeks annual paid family and medical leave and allow part-time employees a commensurate amount of leave on a pro rata basis Credit amount is 12.5% of wages paid to qualifying employees when they are on family and medical leave if the payment rate under the program is 50% of the wages normally paid to an employee	Credit repealed
Suspension of exclusion for reimbursement of bicycle commuting (section 132(f)(8))	No exclusion from income or employment tax for reimbursement of bicycle commuting expenses	Income and employment tax exclusions reinstated for employer-provided bicycle commuting reimbursements of up to $20 per month for reasonable expenses such as bicycle purchase, repair, and storage
Suspension of exclusion for moving expense reimbursement (section 132(g)(2))	No exclusion from AGI for reimbursement payments for employment-related moving expenses	Reimbursement payments for employment-related moving expenses excludable from AGI
Deductibility of employer *de minimis* meals and related eating facility, and meals for the convenience of the employer (section 274(o))	50% deduction for expenses for meals provided through an eating facility that meets the requirements for *de minimis* fringes and for the convenience of the employer; no deduction for expenses incurred and paid after Dec. 31, 2025	Deduction eliminated

Other expiring tax provisions also in the mix

In addition to the expiring TCJA provisions, lawmakers also will have to decide how to address other significant temporary tax "extenders" provisions that are scheduled to sunset in 2025. Moreover, roughly a dozen provisions—mostly in the energy sector—that are set to lapse at the end of *this* year could wind up in the extenders mix for 2025 if lawmakers are unable to address them during a post-election lame duck session in the final weeks of the 118th Congress.

All of these provisions—and their scheduled sunset dates, indicated in brackets—are outlined in the tables below. Items in each category are listed in code section order.

Source: Joint Committee on Taxation staff. *List Of Expiring Federal Tax Provisions* 2024-2034 (JCX-1-24), Jan. 11, 2024.

Individual tax provisions

Exclusion for discharge of indebtedness on principal residence (section 108(a)(1)(E)) ***[Dec. 31, 2025]***

Exclusion for certain employer payments of student loans (section 127(c)(1)(B)) ***[Dec. 31, 2025]***

Affordable Care Act premium assistance credit enhancements (sections 36B(b)(3)(A)(iii) and (c)(1)(E) ***[Dec. 31, 2025]***

Corporate and business-focused provisions

Lookthrough treatment for payments between related controlled foreign corporations under the foreign personal holding company rules (section 954(c)(6)(C)) ***[Dec. 31, 2025]***

Seven-year recovery period for motorsports entertainment complexes (sections 168(e)(3)(C)(ii) and (i)(15)(D)) ***[Dec. 31, 2025]***

Special expensing rules for certain film, television, and live theatrical productions (section 181(g)) ***[Dec. 31, 2025]***

Energy provisions

Second-generation biofuel producer credit (section 40(b)(6)(J)) ***[Dec. 31, 2024]****

Incentives for biodiesel and renewable diesel ***[Dec. 31, 2024]****

- Income tax credits for biodiesel fuel, biodiesel used to produce a qualified mixture, and small agri-biodiesel producers (section 40A(g))
- Excise tax credits and outlay payments for biodiesel fuel mixtures (sections 6426(c)(6) and 6427(e)(6)(B))
- Excise tax credits and outlay payments for renewable diesel fuel mixtures (sections 6426(c)(6) and 6427(e)(6)(B))

Energy provisions

Incentives for sustainable aviation fuel ***[Dec. 31, 2024]****

- Credit for sustainable aviation fuel (section 40B(h))
- Excise tax credits and outlay payments for sustainable aviation fuel (sections 6426(k) and 6427(e)(6)(E))

Beginning-of-construction date for renewable power facilities eligible to claim the renewable electricity production credit or investment credit in lieu of the production credit (sections 45(d) and 48(a)(5)) ***[Dec. 31, 2024]****

Beginning-of-construction date for increased credit for business solar energy property and credit for fiber optic solar lighting system property, qualified fuel cell and stationary microturbine power plant property, combined heat and power property, small wind property, and waste energy recovery property (section 48(a)(2)(A)(i)(II), (a)(3)(A)(ii), (a)(3)(A)(viii), (c)(1)(E), (c)(2)(D), (c)(3)(A)(iv), and (c)(4)(C)) ***[Dec. 31, 2024]****

Increase in energy credit for solar and wind facilities placed in service in connection with low-income communities (section 48(e)(4)(C)) ***[Dec. 31, 2024]****

Five-year recovery period for certain energy property (sections 168(e)(3)(B)(vi)(I) and 48(a)(3)(A)) ***[Dec. 31, 2024]****

Incentives for alternative fuel and alternative fuel mixtures ***[Dec. 31, 2024]****

- Excise tax credits and outlay payments for alternative fuel (sections 6426(d)(5) and 6427(e)(6)(C))
- Excise tax credits for alternative fuel mixtures (section 6426(e)(3))

Oil Spill Liability Trust Fund financing rate (section 4611(f)(2)) ***[Dec. 31, 2025]***

*See the JCT expiring provisions report for details on how many of these incentives interact with various clean energy incentives enacted in the Inflation Reduction Act

Economic development provisions

New markets tax credit (section 45D(f)(1)) ***[Dec. 31, 2025]***

Work opportunity tax credit (section 51(c)(4)) ***[Dec. 31, 2025]***

Empowerment zone tax incentives (sections 1391(d)(1)(A)(i) and (h)(2), section 1396) ***[Dec. 31, 2025]***

Health care provisions

Safe harbor for high-deductible health plans that do not include a deductible for telehealth and other remote care services (section 223(c)(2)(E)) ***[Dec. 31, 2024]***

Fading institutional memory: Taxwriter turnover since 2017

The tables below list the lawmakers who were serving on either the House Ways and Means Committee or the Senate Finance Committee when the Tax Cuts and Jobs Act was enacted in 2017. Names in red type indicate then-committee members who have since left Congress. Names in black type indicate members who still serve on the taxwriting panels and thus can provide insights to newer taxwriters on how the TCJA came to be enacted in the form that it ultimately took and how the decisions that were made in 2017 might influence the discussion of tax code changes in 2025. (Current committee members who were taxwriters in 2017 but did not seek re-election this year and therefore will not be involved in the coming tax debate are indicated in *red italics*. Several of the members who still serve on these panels face tough re-election races, so the number of veteran lawmakers who are no longer on Capitol Hill may be even higher when the 119th Congress is sworn in next January.)

Note that on both panels, turnover has been especially high among Republicans, who held the majority in the House and Senate in 2017, drafted the TCJA, and steered it through Congress without Democratic support.

Source: *Tax News & Views*, Vol. 18, No. 7, Feb. 17, 2017.

House Ways and Means Committee 2017 roster

Republicans		Democrats	
Kevin Brady, Texas*	Tom Reed, N.Y.	Richard Neal, Mass.**	Terri Sewell, Ala.
Sam Johnson, Texas	Mike Kelly, Pa.	Sander Levin, Mich.	Suzan DelBene, Wash.
Devin Nunes, Calif.	Jim Renacci, Ohio	John Lewis, Ga.	Judy Chu, Calif.
Pat Tiberi, Ohio	Patrick Meehan, Pa.	Lloyd Doggett, Texas	
Dave Reichert, Wash.	Kristi Noem, S.D.	Mike Thompson, Calif.	
Peter Roskam, Ill.	George Holding, N.C.	John Larson, Conn.	
Vern Buchanan, Fla.	Jason Smith, Mo.	*Earl Blumenauer, Ore.*	
Adrian Smith, Neb.	Tom Rice, S.C.	Ron Kind, Wis.	
Lynn Jenkins, Kan.	David Schweikert, Ariz.	Bill Pascrell, N.J.	
Erik Paulsen, Minn.	Jackie Walorski, Ind.	Joseph Crowley, N.Y.	
Kenny Marchant, Texas	Carlos Curbelo, Fla.	Danny Davis, Ill.	
Diane Black, Tenn.	Mike Bishop, Mich.	Linda Sánchez, Calif.	
		Brian Higgins, N.Y.	

Senate Finance Committee 2017 roster

Republicans		Democrats	
Orrin Hatch, Utah*	Richard Burr, N.C.	Ron Wyden, Ore.**	*Ben Cardin, Md.*
Charles Grassley, Iowa	Johnny Isakson, Ga.	*Debbie Stabenow, Mich.*	Sherrod Brown, Ohio
Mike Crapo, Idaho	Rob Portman, Ohio	Maria Cantwell, Wash.	Michael Bennet, Colo.
Pat Roberts, Kan.	Patrick Toomey, Pa.	Bill Nelson, Fla.	Robert Casey, Pa.
Michael Enzi, Wyo.	Dean Heller, Nev.	Robert Menendez, N.J.	Mark Warner, Va.
John Cornyn, Texas	Tim Scott, S.C.	*Tom Carper, Del.*	Claire McCaskill, Mo.
John Thune, S.D.	Bill Cassidy, La.		

Notes: *Committee chairman; **Committee ranking member

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Acknowledgments and contacts

Approaching the cliff: Tax policy and the 2024 elections was prepared by the Tax Policy Group in Deloitte Tax LLP's Washington National Tax Office and published under the direction of Adam Moehring, Managing Partner, Washington National Tax, and Jon Traub, Managing Principal, Tax Policy.

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