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Scaling the cliff: Tax policy implications of a Donald Trump presidency

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Introduction

The Associated Press and other media outlets reported early on November 6 that former President Donald Trump has been elected to serve a second, nonconsecutive term in the Oval Office.

Still to be determined is the balance of power on Capitol Hill. According to the Associated Press, Republicans have secured a majority in the Senate, but neither party has won control of the House, and just when we will know the final outcome in that chamber remains unclear.

Tax policy's role in the campaign

Tax generally played a subordinate role during the general election campaign, and when it did emerge as an issue, both Trump and his Democratic challenger, Vice President Kamala Harris, presented their respective visions largely in broad strokes. One underlying component of the tax policy discussion was the future of the Tax Cuts and Jobs Act of 2017 (TCJA, P.L. 115-97), the signature legislation of the first Trump administration that moved through a Republican-controlled Congress under fast-track budget reconciliation rules. 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, among other provisions.

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—many of the provisions on the individual side of the tax code are 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 after next year.

All of this sets up the prospect of a massive fiscal cliff for President-elect Trump and the incoming 119th 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 permanent passthrough business income. (See the tables beginning on page 11 for a list of all the lapsing TCJA provisions lawmakers will have to contend with next year.) During the campaign, Trump generally supported making these temporary provisions permanent. The nonpartisan Congressional Budget Office (CBO) estimated in May that the 10-year cost (including additional debt service costs) of permanently extending the TCJA's expiring tax relief 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 that challenge for the incoming presidential administration and Congress is the scheduled expiration next year of some significant temporary non-TCJA tax benefits, such as the new markets tax credit and the lookthrough rules for controlled foreign corporations in section 954(c)(6). And, of course, the additional tax code changes that former (and future) President Trump outlined on the campaign trail all will come with costs of their own.

Find out more

Scaling the cliff: Tax policy implications of a Donald Trump presidency offers an overview of how the second Trump administration may address the expiring TCJA provisions and other tax policy issues, based on his stated positions about the TCJA, the additional tax proposals he put forward over the course of the campaign, and the planks in the Republican Party platform.

As we contemplate the direction in which President-elect Trump proposes 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 his second 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 Trump's tax policy ambitions—including the extent to which revenue raisers might be 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.

Donald Trump's tax agenda

President-elect Trump did not release a detailed tax policy blueprint during the general election campaign, although he has called for making the TCJA permanent—a position that became a plank in the official GOP platform adopted by the Republican National Committee at its presidential nominating convention in July. Since the convention, he continued to tout the benefits of the 2017 legislation but also weighed in on a number of other tax policy issues beyond the TCJA.

Corporate tax rates, tariffs

The Tax Cuts and Jobs Act permanently reduced the corporate tax rate to 21% (from 35% under prior law), but in remarks to the Economic Club of New York on September 5, Trump proposed to cut that rate even further—to 15%—although that lower rate would apply "solely for companies that make their products in America."

He indicated that the proposal is intended to spur domestic production, but cautioned that companies that "outsource, offshore, or replace American workers" would be ineligible for the lower rate and that products imported into the US would be subject to "a very substantial tariff."

"Our message is simple: make your product here in America. Only in America," he said.

He did not elaborate how this proposal would work.

Previously, Trump had discussed the possibility of cutting the corporate tax rate to 20% or even 15%, but he offered no additional specifics until his September 5 speech.

He doubled down on this proposal during a September 24 speech in Savannah, Georgia, although, again, he did not offer key details on issues such as how his plan would address the tax treatment of goods that are finished in the US but made with imported components. He did, however, put a finer point on the issue of tariffs for domestic companies that offshore their production activities, stating that his new proposed 15% rate would make the US "the most competitive [country] . . . anywhere on the planet, but only for those who make their product in the USA."

Trump's carrot of lower corporate taxes on US manufacturers in some ways harkens back to the domestic production activities deduction, which was part of the US tax code until 2017, when it was repealed as part of the TCJA. Under Trump's vision for his second administration, this incentive (or something comparable) would return—albeit with a stick in the form of steep tariffs on imported goods.

In one particular example of how a tariff might be structured, he stated that automobiles brought into the US from plants situated in Mexico would be subject to a levy of 100%. (In previous remarks, Trump generally has called for tariffs ranging from 10% to 20%, with higher rates on imports from China.)

Taxpayer-unfavorable TCJA tax code changes

In what appeared to be a call for reversing certain taxpayer-unfavorable changes that were enacted under the TCJA, Trump also told the Economic Club of New York that his tax plan "calls for expanded R&D tax credits [and] 100% bonus depreciation."

Under the TCJA, the 100% rate for bonus depreciation has been phasing down in annual increments of 20 percentage points since 2023. (A 60% rate is in effect for 2024, but will be reduced to 40% for 2025, 20% for 2026, and zero for property placed in service after December 31, 2026.) The TCJA also provides that R&D expenditures paid or incurred in taxable years beginning after December 31, 2021, are subject to capitalization over 5 years for research conducted within the US and 15 years for research conducted outside the US.

Trump made a similar pledge to reinstate pre-TCJA treatment of bonus depreciation and R&D expenditures during his September 24 remarks in Savannah.

There have been bipartisan calls from lawmakers to restore 100% bonus depreciation and the immediate deduction of domestic R&D expenses; however, legislation from House Ways and Means Committee Chair Jason Smith, R-Mo., and Senate Finance Committee Chair Ron Wyden, D-Ore., that would address those and other items, including changes to interest deductibility rules and an expanded child tax credit, is currently stalled on Capitol Hill. The Tax Relief for American Families and Workers Act (H.R. 7024) passed the House in January but failed to clear a procedural hurdle in the Senate on August 1, shortly before Congress adjourned for a weeks-long recess ahead of the elections. It is unclear if the Senate will attempt to take up the bill again when lawmakers return to Capitol Hill for a post-election "lame duck" legislative session.

Income tax exclusions and deductions for individuals, small businesses

On the individual side of the tax code, in addition to expressing support for making the expiring TCJA tax cuts permanent, Trump broadly pledged over the course of the presidential campaign that his administration would eliminate federal taxes on several specific types of income and create new targeted deductions related to certain consumer purchases. He also proposed to increase current-law expensing limitations for small businesses. Additional details on how these proposals would operate have not been provided.

Tip income: During a June 9 campaign rally in Las Vegas, Nevada, Trump proposed to end taxes on tips for individuals working in the restaurant and hospitality industries, although he did not specify whether the exemption would apply only to federal income taxes or also would apply to employment (Social Security and Medicare) taxes.

Overtime pay: In a similar vein, Trump told the audience at a campaign event in Tucson, Arizona, on September 12 that his administration would end all taxes on overtime pay, arguing that such a move would create incentives to work while providing needed tax relief for individuals such as "police officers, nurses, factory workers, construction workers, truck drivers, and machine operators."

Social Security benefits: In a July 31 post on his Truth Social platform, Trump proposed to eliminate taxes on Social Security benefits.

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, Trump has not explained how his administration would replace the forgone revenue from the proposed tax exemption for Social Security income or how it would mitigate the impact of that proposal 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.)

Worldwide income of US citizens living abroad: In a statement to *The Wall Street Journal* on October 9, Trump called for "ending the double taxation of overseas Americans." Although he did not provide additional details, the former president presumably is seeking to eliminate or narrow current federal tax rules which provide that the worldwide income of a US citizen is generally subject to US income tax regardless of where that individual is living. Under current law, certain exclusions apply to foreign earned income, and an exclusion or deduction may apply for housing expenses under certain circumstances.

Deduction for auto loan interest payments: In remarks to the Detroit Economic Club on October 10, Trump proposed to make interest on automobile loans "fully deductible" from federal income taxes, but he has offered no details since then on how such a deduction would be structured. There is no deduction under current law for personal interest, which the IRS describes as interest paid on a loan to purchase a car for personal use, credit card and installment interest incurred for personal expenses, and interest and certain other expenses related to tax-exempt income. Trump explained that his proposed new deduction would "stimulate massive domestic auto production" and make vehicle ownership more affordable for consumers.

Trump did not elaborate on his proposal in his Detroit remarks, but at a rally in Greensboro, North Carolina on October 22, he clarified that the deduction would be available only for interest incurred in purchasing vehicles that are "manufactured in the United States."

"I don't want [the deduction] to benefit other countries. I want it to benefit us," Trump said.

Questions still remain on issues such as whether the deduction would be available for loans on vehicles that are manufactured in the US by automakers that are foreign-owned, or for US-manufactured vehicles that include foreign-produced components.

In conjunction with this proposal, Trump has called for substantial new tariffs intended to prevent Chinese automobile manufacturers and auto parts manufacturers from locating plants in Canada and Mexico and then exporting their products into the United States. (See separate discussion elsewhere in this report for more on Trump's tariff proposals.)

Increase in small business expensing limitation: Trump also proposed in his Detroit remarks to "double the amount of equipment investment [taxpayers] can deduct under section 179"—a move that he said would encourage vehicle purchases by small businesses. The TCJA permanently set the small business expensing cap at $1 million in a given year for qualifying property, subject to a phase-out when the cost of qualifying property exceeds $2.5 million. (Trump did not mention possible changes to the phase-out threshold.)

Temporary deduction for purchase of home generators: In the wake of several recent US natural disasters, Trump pledged in an October 11 post on his Truth Social platform to allow certain individuals to fully deduct the cost of a new home generator from their federal income taxes. The deduction would be available retroactive to September 1, 2024, and would expire after August 31, 2025. The post was addressed to residents of "North Carolina, Georgia, Florida, Alabama, South Carolina, Tennessee and . . . Louisiana, Texas, and other [s]tates," so it is unclear just how widely available the proposed deduction would be if it were enacted. Also unclear is whether there would be any limitations on the types of generators that would qualify for the deduction.

Uncapping the SALT deduction

Trump proposed in September to eliminate a provision of his signature 2017 tax law that imposed a $10,000 cap on the deduction for state and local taxes (SALT). The cap is currently set to expire after 2025.

He initially raised the issue of restoring the SALT deduction in a post on his Truth Social platform on September 17 and reiterated that pledge the following day at a rally he held in Uniondale, New York, on Long Island, where SALT cap repeal has been a popular issue.

"I will cut taxes for families, small businesses, and workers, including restoring the SALT deduction, saving thousands of dollars for residents of New York, Pennsylvania, New Jersey, and other high-cost states," he told his audience.

The SALT deduction was unlimited before the TCJA was signed into law, although, as a practical matter, other provisions in the pre-TCJA tax code, such as the individual alternative minimum tax (AMT) and the "Pease" limitation on itemized deductions, reduced the benefit of the deduction for some taxpayers. (In addition to capping the SALT deduction, the TCJA temporarily repealed the Pease limitation and increased the amount of the AMT exemption. The Pease limitation is scheduled to be restored after 2025, along with the lower prior-law AMT exemption amount.)

Issues around capping or uncapping the SALT deduction do not divide lawmakers or taxpayers neatly along party lines. The deduction cap generated revenue to help offset the cost of the TCJA's tax cuts, and its impact primarily hits the relative minority of taxpayers who itemize their federal tax deductions and who generally live in jurisdictions with high state income, local income, and property taxes. (According to a 2024 IRS report on individual income taxes, returns claiming itemized deductions accounted for 9.2% of all returns filed for tax year 2021. It's worth noting, though, that for tax year 2017, the final year before the increased standard deduction and other tax code changes included in the TCJA took effect, IRS data shows that itemizers represented a comparatively larger share of the tax base, accounting for 30.6% of all returns filed.)

Democratic and Republican lawmakers from states and districts that are disproportionately impacted by the cap have sought to repeal or substantially relax the limitation on the deduction since it became law, and many made it an issue in their 2024 congressional campaigns. There has been some discussion in Congress since 2017 about modifying the cap by eliminating or reducing its so-called marriage penalty. (The $10,000 limitation applies whether filers are single or married filing jointly and is not indexed for inflation.) Several Republicans, however, have supported extending the cap—or even repealing the SALT deduction altogether—as they contemplate the larger issue of how to address the pending expiration of large swaths of the TCJA next year.

The SALT deduction and the TCJA's $10,000 cap also have exposed rifts among congressional Democrats. Senate Majority Leader Charles Schumer, D-N.Y., for example, has criticized the cap since its implementation; however, efforts to eliminate it have been stymied by some in his own party who see that action as a costly choice that would mostly benefit wealthy taxpayers.

Family-focused tax relief

Congressional Republicans have frequently cited the TCJA's expanded child tax credit (among other changes, the credit amount was doubled from prior law) as a compelling reason to make the 2017 legislation permanent. But Trump took the issue of reducing expenses associated with raising children one step further when he pledged in an August 29 speech in Potterville, Michigan, to allow parents to deduct certain unspecified expenses related to having a newborn child. Additional details on that proposal have not been released.

The Republican Party platform also makes passing references to three other proposed tax incentives for families—expanding current benefits for tax-preferred section 529 education savings accounts, creating a new credit for first-time home buyers, and creating a new credit for family caregivers—although these did not figure prominently in Trump's rhetoric on the campaign trail. Trump stated at an October 27 campaign event in New York City that he would "support a tax credit for family caregivers who take care of a parent or a loved one," although he has not provided additional details since then.

Economic outlook adds pressure for offsets in 2025

President-elect Trump did not discuss during the campaign just how, or even whether, he intends to pay for some or all of the cost of renewing the expiring TCJA provisions, although he has commented in general terms that his proposed tariffs would generate significant revenue for the fisc. The Republican platform broadly endorses "baseline tariffs on foreign-made goods," noting that "as tariffs on foreign producers go up, taxes on American workers, families, and businesses can come down." That argument is not universally accepted, even among some Republicans, however.

Once Trump begins his second term in the White House, he is likely to face pressure from Congress—including from some Republican lawmakers—to include offsets as part of a larger tax plan. House Ways and Means Committee Chair Jason Smith 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 consider an increase in the rate as a viable revenue-raising option for a future tax bill. It's worth noting that a handful of congressional Republicans indicated this past summer that they might be open to a modest increase in the corporate tax rate; however, those comments came before Trump announced his proposed 15% rate for domestic manufacturers, and that development might influence some of those lawmakers to rethink their position.

Another potential source for Republicans seeking revenue offsets is the slate of clean energy tax incentives in the Inflation Reduction Act (P.L. 117-169), the roughly $740 billion tax, spending, and deficit-reduction package that moved through a Democratic House and Senate under budget reconciliation rules in 2022. Republican Sen. Charles Grassley of Iowa, who sits on both the Finance and Budget committees, suggested at a Budget Committee hearing in July that unwinding those provisions, particularly those related to electric vehicles, "could net hundreds of billions in savings." (A contingent of House Republicans, however, has cautioned against full repeal of the energy provisions in the 2022 law, arguing in a letter to Speaker Mike Johnson, R-La., that certain incentives have driven job creation in their districts and that many US companies are using them to invest in energy infrastructure and projects across the country.)

Republicans also may seek further clawbacks of the special mandatory funding allocated to the IRS (through 2032) under the Inflation Reduction Act to, among other things, enhance the agency's compliance and enforcement efforts. (The original funding amount of $80 billion over 10 years included separate allocations for enforcement, business systems modernization, and improvements to taxpayer services. The enforcement allocation was trimmed by $20 billion on a bipartisan basis in the fiscal year 2024 government funding law enacted this past March.)

Increasing cost and deficit projections

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 or believed the societal benefits of certain revenue-losing policies outweighed the costs, particularly at a time of ultra-low interest rates. 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 many 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.

Indeed, with the 2025 fiscal cliff now squarely in view, there are several external factors which suggest that finding ways

to pay for significant tax relief next year may be a matter of economic necessity.

An expanding price tag: First and foremost, the sheer cost of extending the expiring TCJA provisions—$4.6 trillion over 10 years, inclusive of debt service costs, according to the CBO—may be too big to be ignored. And that figure will get even larger when the 10-year budget window shifts forward early next year.

Some Republicans contended in 2017 that the TCJA would generate enough economic growth to make it revenue neutral over the long term. But CBO 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."

Moreover, none of the additional tax cuts Trump has proposed—reducing the corporate tax rate to 15% for domestic manufacturers, eliminating federal taxes on various types of individual income, and reinstating the unlimited deduction for SALT—has been officially scored by the CBO or the Joint Committee on Taxation staff (the other official nonpartisan scorekeeper on Capitol Hill). Various nonpartisan policy-focused organizations outside of the government, such as the Tax Policy Center and the Committee for a Responsible Federal Budget, have estimated that these proposals would add significantly to the CBO's projected $4.6 trillion cost for extending all of the expiring TCJA provisions.

Further complicating matters is the fact that lawmakers also will have to address 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 18 for a list of those provisions.)

Increasing debt and deficit levels: Any unease over the cost of extending all or even part of the TCJA and other expiring provisions plus enacting new tax cuts is exacerbated by recent fiscal projections issued by the CBO.

In October, the nonpartisan agency released a report estimating that the budget deficit for fiscal year 2024, which ended September 30, reached more than $1.8 trillion, or more than 6% 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.

According to a long-term outlook the CBO released in June, this negative trend will continue 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 optimistic 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.) The 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. And again, those levels are predicated on the assumption that the temporary provisions of the TCJA are allowed to expire as scheduled.

On the spending side of the ledger, the CBO projects that outlays—which have fallen sharply from their pandemic-era highs—will 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, the CBO notes, spending over the last 50 years has averaged about 21% of GDP.

Is fiscal discipline coming back into fashion?

The combined effects of these pressures ***plus*** the need for the White House and Congress to act when the most recent suspension of the federal debt ceiling expires early next year suggest 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:

- Find more than $4 trillion in spending cuts to pay for extending TCJA tax relief;
- 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
- Choose to deficit-finance a tax relief package of that magnitude.

Therefore, if Congress decides to pay for some or all of the TCJA extensions, some combination of business and individual revenue raisers—in the form of corporate and individual rate increases, base-broadening provisions, or both—may well be up for discussion.

The politics of policymaking

The presidential election has been called for Donald Trump, but as we go to press, the power dynamics on Capitol Hill remain unclear. Republicans have won control of the Senate, but several races in the House have not been called and we may not know which party wins control of that chamber for some time. The final headcount in the House will give us a complete picture of the make-up of the next Congress and how that might shape Trump's ability to advance his tax agenda.

We will provide an updated and more detailed discussion of the tax policy outlook once majority control of both chambers has been determined. In the meantime, here is a high-level overview of what may be possible legislatively depending on how the power in Congress is ultimately allocated.

If control of Congress is split

If Democrats ultimately win the House and control of Congress is split, the stage is set for a continuation of the same dynamic we generally have seen on Capitol Hill for the last two years. Under this scenario, the ambitious proposals Trump announced during the campaign to extend all of the expiring TCJA tax cuts for individuals, estates, and passthrough entities; reduce the corporate tax rate to 15% for domestic manufacturers; enact new tax exemptions for tips, overtime income, and Social Security benefits; and create new deductions for various consumer purchases likely would be tempered by the realities of divided government.

Democrats may be able to move bills reflecting their tax policy priorities through the House but in many cases could see them languish in the Senate. Republicans, for their part, could attempt to advance their priorities in the Senate, but because they will have fewer than 60 members on their side of the aisle, they could see those efforts stall because of the filibuster, a procedural tool that allows a minority of lawmakers in the chamber to block legislation that does not have broad bipartisan support. Ending a filibuster requires a three-fifths—60 vote—supermajority.

Reconciliation not an option: An important procedural ramification of having a Congress that remains divided, if that is the ultimate outcome, is the fact that budget reconciliation—an expedited legislative process which has been used by both parties several times in recent decades to bypass a filibuster in the Senate and enact tax and spending legislation on a party-line basis—will very likely be off the table. Indeed, the first step to putting the reconciliation process in motion requires the House and Senate to adopt a joint budget resolution that includes reconciliation instructions that direct authorizing committees in both chambers to report legislation that conforms to certain agreed-upon fiscal parameters—a highly unlikely scenario given the current divide between Democrats and Republicans on fiscal policy issues.

Thus, much as it has been during the current Congress with respect to appropriations legislation and other "must-pass" measures, any tax and spending bills—such as legislation related to the expired and expiring components of the TCJA or additional tax relief proposals for individuals, whether with or without revenue offsets—that reach President Trump's desk over the next two years may ultimately have to be the product of bipartisan congressional negotiations, a reality that could put a significant damper on Trump's ability to see his broader fiscal policy agenda enacted into law.

In the current Congress, divided government produced little in the way of substantive tax legislation that became law. Given the magnitude of the fiscal cliff that's looming in 2025, however, the forces compelling Democrats and Republicans to reach ***some*** sort of agreement on the expiring TCJA provisions and other tax issues during the 119th Congress may be much stronger than they have been the past two years.

If Republicans take both chambers

If Republicans emerge with majorities in the House and the Senate, President-elect Trump and party leaders may be positioned to advance some of the substantial tax policy changes he proposed during the election campaign. Nonetheless, they still could face some significant hurdles in getting those changes enacted into law.

Filibuster still a factor: Because under this outcome Republicans are expected to have fewer than 60 seats in the Senate, however, any significant partisan legislation they advance likely would be subject to a filibuster, which, as explained above, can only be overcome with a 60-vote supermajority. That means Republican leaders and the Trump White House would need to get some level of buy-in from Democrats to move tax legislation through the chamber under what's known as "regular order."

Budget reconciliation an option: If a bipartisan compromise on the direction of tax policy in the new Congress proves elusive, however, Republicans would have an opportunity to invoke the budget reconciliation process (described above) to pass party-line (or nearly party-line) tax and spending legislation.

As a practical matter, reconciliation typically has been employed primarily during periods of unified party control—that is, when the House, Senate, and White House are all controlled by one of the two parties—since the rules require both chambers to agree on a concurrent budget resolution that includes reconciliation instructions on tax or mandatory spending policy. In recent years, for example, a majority-Republican Congress advanced the Tax Cuts and Jobs Act during the first Trump administration and a majority-Democratic Congress secured passage of the American Rescue Plan Act of 2021 and the Inflation Reduction Act of 2022 during President Biden's time in the White House.

But advancing legislation under budget reconciliation is not guaranteed to put it on a glide path to enactment. When a party has a slim margin of control in either chamber and can lose only a small number of members on legislation, each member holds significant sway over the process and can delay or even kill a bill by withholding their support—something Republicans discovered during their unsuccessful effort to repeal the Affordable Care Act in 2017, even though they campaigned on that issue in the 2016 elections, and that Democrats had to acknowledge when they scaled back some of their most ambitious goals for Build Back Better legislation in 2021 and 2022. Reconciliation measures are also limited by what's known as the Byrd Rule, which imposes restrictions on the types of provisions that can be included in legislation moved under that process.

If Republicans can maintain internal unity and craft legislation that complies with Byrd Rule restrictions, however, we could see the enactment of substantial party-line tax legislation in the next Congress.

Evaluate, model, plan

Despite the present uncertainty over who will control Congress, and the markedly different procedural options that may be available to lawmakers depending on how power is apportioned, significant tax law changes over the next few years remain a real possibility. It is not too early to start evaluating the proposals being put forward, 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 legislation with substance, effective dates, and, possibly, carve-outs and anti-abuse rules.

Expiring TCJA provisions, Trump's tax proposals, and the 2025 policy debate

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.

President-elect Trump and congressional Republicans generally have expressed support for extending the TCJA in its entirety. Congressional Democrats generally have indicated support for allowing the temporary TCJA tax cuts to expire for taxpayers with income greater than $400,000 ($450,000 for joint filers) but would leave them in place for less affluent households.

Over the course of the campaign, Trump also announced various additional tax proposals that could be folded into the coming debate over how to address the TCJA. These items, which we have cited in our discussion of his tax policy agenda, are shaded in green. The president-elect could, of course, propose additional tax relief and revenue-raising provisions that were endorsed in the 2024 Republican platform and mentioned elsewhere in this report.

Provisions in each of these tables (or in identified categories within the tables) generally are listed in code section order.

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 2024-40, Oct. 22, 2024; 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/Current law	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; $626,350/$751,600 in 2025)	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

Provisions affecting individuals

Item	TCJA provision/Current law	Scheduled change in 2026
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 and 2025); 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 Trump supports extending the TCJA's enhanced child tax credit but has also proposed a new deduction for certain unspecified expenses associated with having a newborn child
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; $88,100/$137,000 in 2025) Phase-out for alternative minimum taxable income > $500,000 (single) and $1 million (joint), indexed for inflation ($609,350/$1,218,700 for 2024; $626,350/$1,252,700 for 2025)	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
Tax treatment of tip income (generally, section 61)	Not addressed in TCJA; cash and noncash tips generally are subject to federal income taxes; cash tips are subject to employment (Social Security and Medicare) taxes	No scheduled change; however, Trump proposes to exempt tips from federal income taxes for hospitality and service workers (unclear if that exemption would also apply to employment taxes)
Tax treatment of overtime income (generally, section 61)	Overtime pay subject to federal income and employment taxes	No scheduled change; however, Trump has proposed eliminate federal taxes on overtime pay
Standard deduction of individuals (section 63(c)(7))	$12,000 (single) and $24,000 (joint), indexed for inflation ($14,600/$29,200 for 2024; $15,000/$30,000 for 2025)	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

Provisions affecting individuals

Item	TCJA provision/Current law	Scheduled change in 2026
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
Tax treatment of Social Security benefits (section 86)	Individuals with a combined income (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; individuals making more than $34,000 must pay taxes on up to 85% of benefits; thresholds for joint filers are $32,000/$44,000; thresholds are not indexed for inflation	No scheduled change; however, Trump has proposed to eliminate federal tax on Social Security benefits
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
Deductions for personal interest expenses (section 163)	No deduction for interest paid on a loan to purchase a car for personal use, credit card and installment interest incurred for personal expenses, and interest and certain other expenses related to tax-exempt income	No scheduled change; however, Trump has proposed to make interest on automobile loans fully deductible for vehicles that are "manufactured in the United States."
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 Trump has expressed support for reinstating the full deduction

Provisions affecting individuals

Item	TCJA provision/Current law	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 (through 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
Deduction for purchases of home generators (no specific code section)	No provision	No scheduled change; however, Trump has proposed to allow individuals living in certain areas affected by recent natural disasters to fully deduct the cost of purchasing a home generator; deduction would be available retroactive to Sep. 1, 2024, and would expire after Aug. 31, 2025
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

Provisions affecting individuals

Item	TCJA provision/Current law	Scheduled change in 2026
Taxation of worldwide income (section 911)	Worldwide income of a US citizen is generally subject to US income tax regardless of where that individual is living, although certain exclusions apply to foreign earned income, and an exclusion or deduction may apply for housing expenses under certain circumstances	No scheduled change; however, Trump has called for "ending the double taxation of overseas Americans"
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; $13.99 million in 2025)	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
Combat zone tax benefits for members of the Armed Forces in the Sinai Peninsula (TCJA, section 11026)	Sinai Peninsula designated as a combat zone through 2025, entitling US armed forces members serving there (and their families) to combat zone tax benefits including: (1) income and employment tax exemptions on certain military pay received during any month in which the member served there; (2) income tax exemption 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/Current law	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%

Corporate and business-focused tax provisions

Item	TCJA provision/Current law	Scheduled change in 2026
Provisions affecting corporations and businesses generally		
Corporate income tax rate (section 11(b)	TCJA permanently reduced the rate to 21% (from 35%)	No scheduled change; however, Trump proposes to cut the current-law rate to 15% for domestic manufacturers and impose "substantial" tariffs on US-based businesses that "outsource, offshore, or replace American workers"
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; however, there has been bipartisan 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 Trump has expressed support for a return to 100% bonus depreciation
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 Trump has called for "expanded R&D tax credits" (unclear if that refers to reversing this specific TCJA provision)
Small business election to expense depreciable assets (section 179)	Current deduction allowed for eligible property, subject to a $1 million limit in a given year, phased out when the cost of qualifying property exceeds $2.5 million	No scheduled change; however, Trump has proposed raising the expensing limit to $2 million (although he has not addressed changes to the phase-out threshold)
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/Current law	Scheduled changes 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 December 31, 2025	Deduction eliminated

Traditional ‘extenders’ also in the mix for 2025

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]***

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