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Expired and Expiring Tax Provisions ("Tax Extenders"): CRS Resources

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Some Members of Congress have expressed interest in extending temporary tax provisions that expired at the end of 2017 and 2018, and possibly extending provisions scheduled to expire at the end of 2019. Collectively, temporary tax provisions that are regularly extended as a group by Congress, rather than being allowed to expire as scheduled, are often referred to as “tax extenders.”

Temporary tax provisions were most recently extended in the Bipartisan Budget Act of 2018 (BBA18; P.L. 115-123). BBA18 extended nearly all of the provisions that had expired at the end of 2016, with most provisions extended through the end of 2017. For more information on the “tax extenders” concept as well as additional information on provisions that expired at the end of 2017, see CRS Report R45347, *Tax Provisions That Expired in 2017 (“Tax Extenders”)*, by Molly F. Sherlock.

CRS Resources

This report highlights CRS resources that provide background information on recently expired and soon-to-expire tax provisions. **Table 1** lists temporary tax provisions that expired in 2017, and provides information on CRS reports and other products related to each provision.¹ **Table 2** provides the same information for temporary tax provisions that expired in 2018, while **Table 3** provides this information for provisions that are scheduled to expire at the end of 2019. These tables also indicate whether each provision would be extended by the Tax Extender and Disaster Relief Act of 2019 (S. 617) or the Taxpayer Certainty and Disaster Tax Relief Act of 2019 (H.R. 3301)—“tax extender” bills pending, respectively, in the Senate and House.

Table 1. Temporary Tax Provisions That Expired in 2017

Provision	CRS Resources	Extended in S. 617	Extended in H.R. 3301
Credit for certain nonbusiness energy property (IRC § 25C)	<ul style="list-style-type: none"> CRS Report R42089, <i>Residential Energy Tax Credits: Overview and Analysis</i>, by Margot L. Crandall-Hollick and Molly F. Sherlock CRS Report R44990, <i>Energy Tax Provisions That Expired in 2017 (“Tax Extenders”)</i>, by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick <i>Tax Expenditure Compendium</i> entry: Credit for Energy-Efficient Improvements to Existing Homes, pp. 151-157 	Extends through 2019	Extends through 2020
Credit for qualified fuel cell motor vehicles (IRC § 30B)	<ul style="list-style-type: none"> CRS Report R44990, <i>Energy Tax Provisions That Expired in 2017 (“Tax Extenders”)</i>, by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick <i>Tax Expenditure Compendium</i> entry: Credit for Alternative Technology Vehicles: Other Alternative Fuel Vehicles, pp. 159-163 	Extends through 2019	Extends through 2020

¹ The Joint Committee on Taxation (JCT) maintains a list of recently expired and expiring tax provisions. See Joint Committee on Taxation, *List of Expiring Federal Tax Provisions 2017-2027* (JCX-2-19), January 18, 2019.

Provision	CRS Resources	Extended in S. 617	Extended in H.R. 3301
Credit for alternative fuel vehicle refueling property (IRC § 30C)	<ul style="list-style-type: none"> • CRS Report R45747, <i>Vehicle Electrification: Federal and State Issues Affecting Deployment</i>, by Bill Canis, Corrie E. Clark, and Molly F. Sherlock • CRS Report R44990, <i>Energy Tax Provisions That Expired in 2017 ("Tax Extenders")</i>, by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick • <i>Tax Expenditure Compendium</i> entry: Tax Credits for Alternative Fuel Vehicle Refueling Property, pp. 179-183 	Extends through 2019	Extends through 2020
Credit for two-wheeled plug-in electric vehicles (IRC § 30D)	<ul style="list-style-type: none"> • CRS Report R44990, <i>Energy Tax Provisions That Expired in 2017 ("Tax Extenders")</i>, by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick • <i>Tax Expenditure Compendium</i> entry: Credit for Plug-In Electric Vehicles, pp. 165-169 	Extends through 2019	Extends through 2020
Second-generation biofuel producer credit (IRC § 40(b)(6))	<ul style="list-style-type: none"> • CRS Report R44990, <i>Energy Tax Provisions That Expired in 2017 ("Tax Extenders")</i>, by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick 	Extends through 2019	Extends through 2020
Incentives for biodiesel and renewable diesel (IRC §§ 40A, 6426(c)(6), and 6427(e)(6)(B))	<ul style="list-style-type: none"> • CRS Report R44990, <i>Energy Tax Provisions That Expired in 2017 ("Tax Extenders")</i>, by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick 	Extends through 2019	Extends through 2020
Beginning-of-construction date for non-wind renewable power facilities eligible to claim the electricity production credit or investment credit in lieu of the production credit (IRC §§ 45 and 48(a)(5)) ^a	<ul style="list-style-type: none"> • CRS Report R43453, <i>The Renewable Electricity Production Tax Credit: In Brief</i>, by Molly F. Sherlock • CRS Report R44990, <i>Energy Tax Provisions That Expired in 2017 ("Tax Extenders")</i>, by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick • <i>Tax Expenditure Compendium</i> entry: Credits for Electricity Production from Renewable Resources, pp. 185-192 	Extends through 2019	Extends through 2020
Credit for production of Indian coal (IRC § 45(e)(10))	<ul style="list-style-type: none"> • CRS Report R44990, <i>Energy Tax Provisions That Expired in 2017 ("Tax Extenders")</i>, by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick • CRS Report R43453, <i>The Renewable Electricity Production Tax Credit: In Brief</i>, by Molly F. Sherlock • <i>Tax Expenditure Compendium</i> entry: Coal Production Credits: Refined Coal and Indian Coal, pp. 217-221 	Extends through 2019	No ^b

Provision	CRS Resources	Extended in S. 617	Extended in H.R. 3301
Indian employment credit (IRC § 45A)	<ul style="list-style-type: none"> • CRS Report R44930, <i>Business Tax Provisions that Expired in 2017 ("Tax Extenders")</i>, coordinated by Molly F. Sherlock • <i>Tax Expenditure Compendium</i> entry: Credit for Employment and Accelerated Depreciation, Indian Reservations, pp. 593-594 	Extends through 2019	Extends through 2020
Railroad track maintenance credit (IRC § 45G)	<ul style="list-style-type: none"> • CRS Report R44930, <i>Business Tax Provisions that Expired in 2017 ("Tax Extenders")</i>, coordinated by Molly F. Sherlock • <i>Tax Expenditure Compendium</i> entry: Tax Credit for Certain Railroad Track Maintenance, pp. 563-565 	Extends through 2019	Extends through 2020
Credit for construction of new energy-efficient homes (IRC § 45L)	<ul style="list-style-type: none"> • CRS Report R44990, <i>Energy Tax Provisions That Expired in 2017 ("Tax Extenders")</i>, by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick • <i>Tax Expenditure Compendium</i> entry: Credit for Energy-Efficient New Homes, pp. 227-230 	Extends through 2019	Extends through 2020
Mine rescue team training credit (IRC § 45N)	<ul style="list-style-type: none"> • CRS Report R44930, <i>Business Tax Provisions that Expired in 2017 ("Tax Extenders")</i>, coordinated by Molly F. Sherlock 	Extends through 2019	Extends through 2020
Exclusion from gross income of discharge of indebtedness on principal residence (IRC § 108(a)(1)(E))	<ul style="list-style-type: none"> • CRS Report RL34212, <i>Analysis of the Tax Exclusion for Canceled Mortgage Debt Income</i>, by Mark P. Keightley • CRS Report R45710, <i>Housing Issues in the 116th Congress</i>, coordinated by Maggie McCarty and Katie Jones • CRS Report R44925, <i>Recently Expired Individual Tax Provisions ("Tax Extenders"): In Brief</i>, coordinated by Molly F. Sherlock • <i>Tax Expenditure Compendium</i> entry: Exclusion of Income Attributable to the Discharge of Principal Residence Acquisition Indebtedness, pp. 387-389 	Extends through 2019	Extends through 2020
Treatment of premiums for certain qualified mortgage insurance as qualified residence interest (IRC § 163(h)(3)(E))	<ul style="list-style-type: none"> • CRS Report R45710, <i>Housing Issues in the 116th Congress</i>, coordinated by Maggie McCarty and Katie Jones • CRS Report R44925, <i>Recently Expired Individual Tax Provisions ("Tax Extenders"): In Brief</i>, coordinated by Molly F. Sherlock • <i>Tax Expenditure Compendium</i> entry: Deduction for Premiums for Qualified Mortgage Insurance, pp. 343-345 	Extends through 2019	Extends through 2020
Three-year recovery period for racehorses two years old or younger (IRC § 168(e)(3)(A))	<ul style="list-style-type: none"> • CRS Report R44930, <i>Business Tax Provisions that Expired in 2017 ("Tax Extenders")</i>, coordinated by Molly F. Sherlock 	Extends through 2019	No

Provision	CRS Resources	Extended in S. 617	Extended in H.R. 3301
Seven-year recovery period for motorsports entertainment complexes (IRC §§ 168(e)(3)(C)(ii) and (i)(15))	<ul style="list-style-type: none"> • CRS Report R44930, <i>Business Tax Provisions that Expired in 2017 ("Tax Extenders")</i>, coordinated by Molly F. Sherlock • <i>Tax Expenditure Compendium</i> entry: Depreciation of Buildings other than Rental Housing in Excess of Alternative Depreciation System, pp. 417-422 	Extends through 2019	Extends through 2020
Accelerated depreciation for business property on an Indian reservation (IRC § 168(j)(9))	<ul style="list-style-type: none"> • CRS Report R44930, <i>Business Tax Provisions that Expired in 2017 ("Tax Extenders")</i>, coordinated by Molly F. Sherlock • <i>Tax Expenditure Compendium</i> entry: Credit for Employment and Accelerated Depreciation, Indian Reservations, pp. 593-594 	Extends through 2019	Extends through 2020
Special depreciation allowance for second-generation biofuel plant property (IRC § 168(l))	<ul style="list-style-type: none"> • CRS Report R44990, <i>Energy Tax Provisions That Expired in 2017 ("Tax Extenders")</i>, by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick 	Extends through 2019	Extends through 2020
Energy-efficient commercial buildings deduction (IRC § 179D)	<ul style="list-style-type: none"> • CRS Report R44990, <i>Energy Tax Provisions That Expired in 2017 ("Tax Extenders")</i>, by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick • <i>Tax Expenditure Compendium</i> entry: Deduction of Expenditures on Energy-Efficient Commercial Building Property, pp. 107-112 	Extends through 2019	Extends through 2020
Election to expense advanced mine safety equipment (IRC § 179E)	<ul style="list-style-type: none"> • CRS Report R44930, <i>Business Tax Provisions that Expired in 2017 ("Tax Extenders")</i>, coordinated by Molly F. Sherlock • <i>Tax Expenditure Compendium</i> entry: Depreciation on Equipment in Excess of Alternative Depreciation System (see "Rationale"), pp. 437-443 	Extends through 2019	No
Special expensing rules for certain film, television, and live theatrical productions (IRC § 181) ^c	<ul style="list-style-type: none"> • CRS Report R44930, <i>Business Tax Provisions that Expired in 2017 ("Tax Extenders")</i>, coordinated by Molly F. Sherlock • <i>Tax Expenditure Compendium</i> entry: Deduction of Certain Film and Television Production Costs, pp. 517-520 	Extends through 2019	Extends through 2020
Deduction for qualified tuition and related expenses (IRC § 222)	<ul style="list-style-type: none"> • CRS Report R44925, <i>Recently Expired Individual Tax Provisions ("Tax Extenders")</i>: In Brief, coordinated by Molly F. Sherlock • CRS Report R41967, <i>Higher Education Tax Benefits: Brief Overview and Budgetary Effects</i>, by Margot L. Crandall-Hollick • <i>Tax Expenditure Compendium</i> entry: Deduction for Higher Education Expenses, pp. 655-660 	Extends through 2019	Extends through 2020

Provision	CRS Resources	Extended in S. 617	Extended in H.R. 3301
Special rule for sales or dispositions by a qualified electric utility to implement Federal Energy Regulatory Commission ("FERC") or State electric restructuring policy (IRC § 451(k))	<ul style="list-style-type: none"> • CRS Report R44990, <i>Energy Tax Provisions That Expired in 2017 ("Tax Extenders")</i>, by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick • <i>Tax Expenditure Compendium</i> entry: Special Rule to Implement Transmission Restructuring, pp. 237-239 	Extends through 2019	Extends through 2020
Empowerment zone tax incentives (IRC §§ 1391, 1394, 1396, 1397A, and 1397B) ^d	<ul style="list-style-type: none"> • CRS Report R44930, <i>Business Tax Provisions that Expired in 2017 ("Tax Extenders")</i>, coordinated by Molly F. Sherlock • CRS Report RL31457, <i>Private Activity Bonds: An Introduction</i>, by Steven Maguire and Joseph S. Hughes • <i>Tax Expenditure Compendium</i> entry: Empowerment Zone Tax Incentives, pp. 585-588 	Extends through 2019	Extends through 2020
Excise tax credits for alternative fuel and alternative fuel mixtures (IRC §§ 6426 and 6427)	<ul style="list-style-type: none"> • CRS Report R44990, <i>Energy Tax Provisions That Expired in 2017 ("Tax Extenders")</i>, by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick 	Extends through 2019	Extends through 2020
American Samoa economic development credit (§ 119 of the Tax Relief and Health Care Act of 2006 (P.L. 109-432), as amended)	<ul style="list-style-type: none"> • CRS Report R44930, <i>Business Tax Provisions that Expired in 2017 ("Tax Extenders")</i>, coordinated by Molly F. Sherlock 	Extends through 2019	Extends through 2020

Source: Joint Committee on Taxation (JCT), *List of Expiring Federal Tax Provisions*, JCX-2-19, January 18, 2019, <https://www.jct.gov/publications.html?func=startdown&id=5157>; and [Congress.gov](https://www.congress.gov).

Notes: Listings for a "Tax Expenditure Compendium entry" refer to the U.S. Congress, Senate Committee on the Budget, *Tax Expenditures: Compendium of Background Material on Individual Provisions*, committee print, prepared by Congressional Research Service, 115th Cong., 2nd sess., December 2018, S.Prt. 115-28. Proposed extensions would be retroactive. Thus, taxpayers may be able to amend 2018 tax returns to claim tax benefits that had not previously been available.

- a. The PTC for wind facilities expires at the end of 2019, although the credit rate began to phase down starting in 2017.
- b. During the House Ways and Means Committee markup Representative Doggett offered an amendment, which was passed by voice vote, to strike the production credit for Indian coal facilities.
- c. Qualified film, television, and live theatrical productions are eligible for the additional first-year depreciation allowance under § 168(k) if (1) acquired and placed in service after September 27, 2017, and before January 1, 2027; and (2) a deduction otherwise would have been allowable under § 181 without regard to the dollar limitation or termination of that section. See IRC § 168(k)(2)(A)(i)(IV) and (V).
- d. The empowerment zone tax incentives may have expired earlier than December 31, 2017, if a state or local government provided an expiration date in the nomination of an empowerment zone, or the appropriate Secretary revoked an empowerment zone's designation. The state or local government may, however, amend the nomination to provide a new termination date.

Table 2. Temporary Tax Provisions That Expired in 2018

Provision	CRS Resources	Extended in S. 617	Extended in H.R. 3301
Medical expense deduction: adjusted gross income (AGI) floor 7.5% (IRC § 213(f))	<ul style="list-style-type: none"> • <i>Tax Expenditure Compendium</i> entry: Deduction for Medical Expenses and Long-Term Care Expenses, pp. 897-904 	Extends through 2019	Extends through 2020
Black Lung Disability Trust Fund: increase in amount of excise tax on coal (IRC § 4121)	<ul style="list-style-type: none"> • CRS Report R45261, <i>The Black Lung Program, the Black Lung Disability Trust Fund, and the Excise Tax on Coal: Background and Policy Options</i>, by Scott D. Szymendera and Molly F. Sherlock 	Extends through 2019	Extends through 2020
Oil Spill Liability Trust Fund financing rate (IRC § 4611)	<ul style="list-style-type: none"> • CRS Report R43128, <i>Oil Sands and the Oil Spill Liability Trust Fund: The Definition of "Oil" and Related Issues for Congress</i>, by Jonathan L. Ramseur • CRS In Focus IF11160, <i>The Oil Spill Liability Trust Fund Tax: Background and Reauthorization Issues in the 116th Congress</i>, by Jonathan L. Ramseur 	Extends through 2019	Extends through 2020

Source: Joint Committee on Taxation (JCT), *List of Expiring Federal Tax Provisions*, JCX-2-19, January 18, 2019, <https://www.jct.gov/publications.html?func=startdown&id=5157>; and Congress.gov.

Notes: Listings for a "Tax Expenditure Compendium entry" refer to the U.S. Congress, Senate Committee on the Budget, *Tax Expenditures: Compendium of Background Material on Individual Provisions*, committee print, prepared by Congressional Research Service, 115th Cong., 2nd sess., December 2018, S.Prt. 115-28.

Table 3. Temporary Tax Provisions Expiring in 2019

Provision	CRS Resources	Extended in S. 617?	Extended in H.R. 3301?
Credit for health insurance costs of eligible individuals (IRC § 35)	<ul style="list-style-type: none"> CRS Report R44392, <i>The Health Coverage Tax Credit (HCTC): In Brief</i>, by Bernadette Fernandez CRS Report R45781, <i>Health Care-Related Expiring Provisions of the 116th Congress, First Session</i>, coordinated by Phoenix Voorhies <i>Tax Expenditure Compendium</i> entry: Credit for Purchase of Health Insurance by Certain Displaced Persons, pp. 885-890 	No	Extends through 2020
Beginning-of-construction date for wind-renewable power facilities eligible to claim the electricity production credit or investment credit in lieu of the production credit (IRC § 45 and 48(a)(5))	<ul style="list-style-type: none"> CRS Report R44990, <i>Energy Tax Provisions That Expired in 2017 ("Tax Extenders")</i>, by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick CRS Report R43453, <i>The Renewable Electricity Production Tax Credit: In Brief</i>, by Molly F. Sherlock <i>Tax Expenditure Compendium</i> entry: Credits for Electricity Production from Renewable Resources, pp. 185-192 	No	Extends through 2020 ^a
New markets tax credit (IRC § 45D) ^b	<ul style="list-style-type: none"> CRS Report RL34402, <i>New Markets Tax Credit: An Introduction</i>, by Donald J. Marples and Sean Lowry <i>Tax Expenditure Compendium</i> entry: New Markets Tax Credit, pp. 595-598 CRS Report R45693, <i>Tax Equity Financing: An Introduction and Policy Considerations</i>, by Mark P. Keightley, Donald J. Marples, and Molly F. Sherlock CRS Report R42770, <i>Community Development Financial Institutions (CDFI) Fund: Programs and Policy Issues</i>, by Sean Lowry 	No	Extends through 2020
Employer credit for paid family and medical leave (IRC § 45S)	<ul style="list-style-type: none"> CRS In Focus IF11141, <i>Employer Tax Credit for Paid Family and Medical Leave</i>, by Molly F. Sherlock <i>Tax Expenditure Compendium</i> entry: Credit for Family and Medical Leave, pp. 725-731 	No	Extends through 2020
Work opportunity credit (IRC § 51)	<ul style="list-style-type: none"> CRS Report R43510, <i>Selected Recently Expired Business Tax Provisions ("Tax Extenders")</i>, by Jane G. Gravelle, Donald J. Marples, and Molly F. Sherlock CRS Report R43729, <i>The Work Opportunity Tax Credit</i>, by Benjamin Collins and Sarah A. Donovan <i>Tax Expenditure Compendium</i> entry: Work Opportunity Tax Credit, pp. 795-804 	No	Extends through 2020
Look-through treatment of payments between related controlled foreign corporations under the foreign personal holding company rules (IRC § 954(c)(6)(C))	<ul style="list-style-type: none"> CRS Report R43510, <i>Selected Recently Expired Business Tax Provisions ("Tax Extenders")</i>, by Jane G. Gravelle, Donald J. Marples, and Molly F. Sherlock <i>Tax Expenditure Compendium</i> entry: Reduced Tax Rate on Active Income of Controlled Foreign Corporations, pp. 47-54 <i>Tax Expenditure Compendium</i> entry: Deferral of Active Financing Income, pp. 59-64 	No	Extends through 2020

Provision	CRS Resources	Extended in S. 617?	Extended in H.R. 3301?
Specified health insurance policy fee (IRC § 4375)	<ul style="list-style-type: none"> CRS Report R45781, <i>Health Care-Related Expiring Provisions of the 116th Congress, First Session</i>, coordinated by Phoenix Voorhies 	No	No
Self-insured health plan fee (IRC § 4376)	<ul style="list-style-type: none"> CRS Report R45781, <i>Health Care-Related Expiring Provisions of the 116th Congress, First Session</i>, coordinated by Phoenix Voorhies 	No	No
Provisions modifying the rates of taxation of beer, wine, and distilled spirits, and certain other rules (IRC §§ 263A, 5001, 5041, 5051, 5212, and 5414)	<ul style="list-style-type: none"> CRS In Focus IF10973, <i>Craft Alcoholic Beverage Industry: Overview and Regulation</i>, by Renée Johnson and Sean Lowry 	No	Extends through 2020

Source: Joint Committee on Taxation (JCT), *List of Expiring Federal Tax Provisions*, JCX-2-19, January 18, 2019, <https://www.jct.gov/publications.html?func=startdown&id=5157>; and Congress.gov.

Notes: Listings for a “Tax Expenditure Compendium entry” refer to the U.S. Congress, Senate Committee on the Budget, *Tax Expenditures: Compendium of Background Material on Individual Provisions*, committee print, prepared by Congressional Research Service, 115th Cong., 2nd sess., December 2018, S.Prt. 115-28.

- a. The credit would be extended at the 2019 reduced rate, which is a 60% reduction from the full value of the credit.
- b. Subject to a carryover. No amount may be carried to any calendar year after 2024 (IRC § 45D(f)(3)). H.R. 3301 would also extend the carryover to 2025.

Other Resources

There are other resources that might be useful when considering the issue of “tax extenders” or “tax extenders” legislation. These include the following:

- Joint Committee on Taxation (JCT), *Federal Tax Provisions Expired In 2017 And 2018 And Expiring In 2019*, JCX-8-19, March 8, 2019.
 - This document provides a brief description of expired and expiring provisions. The dates when the provision was initially enacted, substantially modified, and most recently extended are also noted.
- Joint Committee on Taxation (JCT), *Description Of H.R. 3301, The “Taxpayer Certainty And Disaster Tax Relief Act Of 2019,”* JCX-30-19, June 18, 2019; and JCT, *Estimated Revenue Effects Of H.R. 3301, The “Taxpayer Certainty And Disaster Tax Relief Act Of 2019,” Scheduled For Markup By The Committee On Ways And Means On June 20, 2019,* JCX-31-19, June 18, 2019.
 - These documents describe and provide revenue estimates for the Taxpayer Certainty and Disaster Relief Act of 2019 (H.R. 3301).
- Congressional Budget Office (CBO), *Revenue Projections by Category*, August 2019 and April 2018.
 - These spreadsheets contain data on the estimated revenue effects of extending expired and expiring provisions through the end of the budget window.

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