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Expiring Provisions of P.L. 115-97 (the Tax Cuts and Jobs Act): Economic Issues

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SUMMARY

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Most provisions affecting the individual income tax in the 2017 tax law (P.L. 115-97), commonly called the Tax Cuts and Jobs Act (TCJA), are scheduled to expire in 2025. These expiring provisions include tax rate reductions as well as changes to the standard deduction, child credit, personal exemptions, and itemized deductions; the deduction for pass-through businesses; the alternative minimum tax; and a number of smaller provisions. The increased exemption for the estate and gift tax under the TCJA is also scheduled to expire in 2025. Additionally, some business and corporate provisions are scheduled to expire or be phased out: expensing for equipment and structures with a recovery period no greater than 20 years, lower rates for certain international provisions, and a number of smaller provisions.

In addition to the expiring provisions of the TCJA, Congress might also consider reinstatement of expensing for research and development and reinstatement of a larger base for the 30% limit on interest deduction. The Tax Relief for American Families and Workers Act of 2024 (H.R. 7024) would reinstate these provisions for 2022 through 2025.

The Joint Committee on Taxation (JCT) estimates that extending the expiring individual income tax provisions would reduce federal tax collections by $3.3 trillion over the 10-year budget window, FY2025-FY2034. The committee estimates that extending the higher estate tax exemptions would cost $167 billion, and extending the business provisions would cost $551 billion. Overall, JCT forecasts that extending these provisions would cost $4 trillion. In most years, the revenue loss would be between 1.2% and 1.4% of gross domestic product (GDP). More than half of the estimated cost is from the individual rate cuts. Another source estimated that reinstating expensing for research and development and switching back to earnings (income) before interest, taxes, depreciation, amortization, or depletion (EBITDA) as the basis for the interest deduction limit would cost an additional $249 billion over 10 years.

Distributional analysis generally indicates the extensions would favor higher-income individuals relative to lower-income individuals, measured as the percentage change in after-tax income. A large part of this effect is from the individual rate cuts and the limitations on the individual alternative minimum tax.

Overall estimates of the economic effects of extending TCJA provisions vary across projections. The Budget Lab at Yale projects that GDP would rise initially, with a peak GDP increase of 0.4% in 2028, but would eventually fall relative to a current-policy baseline. The Penn Wharton Budget Model projects that GDP would increase by 0.3% before declining by 0.2% in 2034. The Tax Foundation projects a long-run steady-state effect of 1.1%. The latter two models do not account for the effects of crowding out of investment by increased deficits. The Congressional Budget Office (CBO) projects that the tax cuts' expiration will cause a temporary reduction in GDP, followed by an eventual increase. This pattern is similar to the Budget Lab's projection for the current-policy baseline in which the tax cuts expire as scheduled. The JCT's estimates differ depending on the model used, ranging from 0.2% to 0.7% over the budget horizon.

This report explains the TCJA provisions that are scheduled to expire and discusses how extending them might affect federal revenues, the distribution of after-tax income, and economic activity.

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This report provides a summary and analysis of the expiring provisions of the 2017 tax law (P.L. 115-97), commonly called the Tax Cuts and Jobs Act (TCJA). These changes are generally scheduled to expire at the end of 2025. These expiring provisions include tax rate reductions as well as changes to the standard deduction, child credit, personal exemptions, and itemized deductions; the deduction for pass-through businesses; the alternative minimum tax; and a number of smaller provisions. The increased exemption for the estate and gift tax under the TCJA is also scheduled to expire in 2025. Additionally, some business and corporate provisions are also scheduled to expire or be phased out: expensing for equipment and structures with a recovery period no greater than 20 years, lower rates for certain international provisions, and a number of smaller provisions.

Congress has also considered legislation to temporarily reinstate two business tax provisions that the TCJA permanently changed. The Tax Relief for American Families and Workers Act of 2024 (H.R. 7024) would (1) reinstate expensing for research and development; and (2) provide a larger base for the limit on interest deductions by reinstating earnings (income) before interest, taxes, depreciation, amortization, or depletion (EBITDA) as the basis for the 30% limit on interest deducted as a share of income for 2022 through 2025. This report discusses those changes and the potential effects of reinstating prior-law provisions.

Revenue Effects

The Joint Committee on Taxation (JCT) reported its estimates of the revenue effects of extending TCJA provisions in the Congressional Budget Office's (CBO's) May 2024 report on *Budget Outcomes Under Alternative Assumptions About Spending and Revenues*.[1] The committee estimated that extending the expiring individual income tax provisions (including the alternative minimum tax) would reduce federal tax collections by $3.3 trillion over the 10-year budget window, FY2025-FY2034, extending the higher estate tax exemptions would cost $167 billion, and extending the business provisions would cost $551 billion. Further, it estimated that extending the employer credit for family and medical leave would cost $4.6 billion, and extending the exclusion from tax on the discharge of certain student debt would cost $7.3 billion. Thus, JCT projected that the overall cost of extending the expiring TCJA provisions would be $4 trillion. In most years, the projected revenue loss is between 1.2% to 1.4% of GDP. Another source estimated that reinstating expensing for research and development and switching back to EBITDA as the basis for the interest deduction limit would cost an additional $249 billion over 10 years.[2]

The projected revenue effect of extending each provision is noted in the discussion of that provision; estimates for the major provisions are reported in **Table 1**. A negative value indicates a revenue increase.

[1] The detailed estimates are in the supplemental data accompanying Congressional Budget Office (CBO), *Budgetary Outcomes Under Alternative Assumptions About Spending and Revenues*, May 8, 2024, https://www.cbo.gov/publication/60114#data.

[2] Penn-Wharton Budget Model, *The Budgetary and Economic Effects of Permanently Extending the 2017 Tax Cuts and Jobs Acts' Expiring Provisions*, May 22, 2024, https://budgetmodel.wharton.upenn.edu/issues/2024/5/22/effects-of-permanently-extending-tcja-expiring-provisions#:~:text=We%20estimate%20that%20permanently%20extending,would%20increase%20by%2016%20percent.

Table 1. Revenue Costs of Extending the TCJA: Major Provisions (Billions of Dollars)

Provision	FY2025-FY2029	FY2025-FY2034
Reduced Individual Tax Rates	$821.8	$2,158.7
Increase and Modification of Child and Dependent Credit	$297.2	$735.3
Increased Alternative Minimum Tax Exemption	$466.2	$1,357.1
Increased Standard Deduction	$471.6	$1,251.0
Changes in Itemized Deductions	-$454.8	-$1,244.3
Repeal of Personal Exemption	-$668.3	-$1,717.5
Pass-Through Business Deduction	$263.3	$684.2
Increased Estate and Gift Exemption	$55.2	$166.9
Restore Expensing for Investment	$272.9	$378.5
International Provisions	$55.4	$141.1

Source: CBO, *Budgetary Outcomes Under Alternative Assumptions About Spending and Revenues*, May 8, 2024, https://www.cbo.gov/publication/60114#data.

Notes: The revenue cost depends on the order of estimation due to interactions between the provisions.

Distributional Effects

Several organizations have provided distributional analysis of extending the TCJA provisions that are scheduled to expire. Their estimates of the percentage changes in after-tax income are shown in **Table 2**. Although there are different approaches to measuring distribution, the percentage changes in after-tax income measure the relative redistribution of income.

Table 2. Estimates of Percentage Changes in After-Income from Extending the TCJA

	Urban-Brookings Tax Policy Center—2027	Penn Wharton Budget Model—2026	The Budget Lab at Yale—2026	Tax Foundation—2026
Lowest Quintile	0.6%	1.2%	0.8%	2.2%
Second Quintile	1.0%	1.3%	1.2%	2.2%
Middle Quintile	1.3%	1.4%	1.5%	1.9%
Fourth Quintile	1.4%	2.0%	1.6%	2.2%
Top Quintile	2.3%	see **Addendum**	see **Addendum**	3.4%
All	1.8%			
Addendum				
80%-90%	1.3%	2.2%	1.5%	2.1%
90%-99%			2.3%	
90%-95%	1.7%	2.2%		2.6%
95%-99%	3.2%	3.3%		4.4%
Top 1%	3.2%			4.8%
99%-99.9%		2.3%	2.4%	
Top 0.1%	3.0%	2.4%	1.5%	

Source: Urban-Brookings Tax Policy Center, "T24-0025—Make Certain Provisions in the 2017 Tax Act Permanent, by ECI Percentile," 2027, July 8, 2024, https://www.taxpolicycenter.org/model-estimates/make-certain-provisions-2017-tax-act-permanent-july-2024/t24-0025-make-certain; Penn Wharton Budget Model, *The Budgetary and Economic Effects of Permanently Extending the 2017 Tax Cuts and Jobs Acts' Expiring Provisions*, May 22, 2024, https://budgetmodel.wharton.upenn.edu/issues/2024/5/22/effects-of-permanently-extending-tcja-expiring-provisions; The Budget Lab at Yale, *Tax Cuts and Jobs Act Expiration: Options for the Tax Code*, April 12, 2024, https://budgetlab.yale.edu/research/tax-cuts-and-jobs-act-expiration-options-tax-code; and Tax Foundation, *Options for Navigating the 2025 Tax Cuts and Jobs Act Expirations*, May 7, 2024, https://taxfoundation.org/research/all/federal/2025-tax-reform-options-tax-cuts-and-jobs-act/.

Note: Year of estimation provided in each column.

Factors contributing to differences in the estimates include differences in the measures of income (for example, a narrower measure of income results in a larger percentage change) and differences in the provisions themselves.[3] In addition, the distribution is affected by assumptions about who bears the economic cost or benefit of business provisions that affect corporate taxes.[4] All estimates find that the effects are generally largest at the higher income levels, indicating that extending the TCJA provisions is expected to make incomes more unequal.

Economic Effects

The Budget Lab at Yale University estimates that the effects of TCJA extension on gross domestic product (GDP) would reach a peak of a 0.4% increase in 2028, but become slightly negative at the end of the budget period, with a continually larger decline in subsequent years. Its model is based on the one used by the Federal Reserve Board. The projected economic effects are largely due to changes in aggregate demand from the lower taxes initially, and crowding out of investment due to increases in the national debt in the long run.[5]

The remaining two private-sector models do not estimate the effects of crowding out of investment or demand-side effects.[6] An analysis by the Penn Wharton Budget Model, which considers the permanent extension of the major provisions and includes the research and interest provisions, projects an increase in GDP of 0.3% by 2034, eventually declining to 0.2% by 2054.[7] The Penn Wharton model generally reflects supply-side effects through a life cycle model (via increases in labor and capital). The Tax Foundation finds a long-run steady state increase in GDP of 1.1%. The Tax Foundation's model is a growth model and also reflects the supply-side effects

[3] The Budget Lab at Yale includes only the individual and estate provisions, and not general business provisions. The Urban Brookings Policy Center includes the provisions in the CBO's document (which excludes the research and interest provision), while the Penn Wharton Budget Model and the Tax Foundation include them but exclude the international provisions.

[4] The Urban-Brookings Tax Policy Center and the Penn Wharton Budget Model assign most of the burden of the corporate tax to capital, following the practices of the JCT, CBO, and Treasury. The assumption in the Tax Foundation Model is not clear. For a discussion of the evidence on corporate tax incidence, which suggests that most of the burden falls on capital, see CRS Report RL34229, *Corporate Tax Reform: Issues for Congress*, by Jane G. Gravelle. See also the briefer discussion of corporate tax incidence in Jane G. Gravelle, "When Estimated Economic Effects Fail the Sniff Test," *National Tax Journal*, vol. 76, no. 3 (September 2023), pp. 621-646.

[5] The Budget Lab, Yale University, *Tax Cuts and Jobs Act Expiration*, April 12, 2024, https://budgetlab.yale.edu/sites/default/files/2024-04/The%20Budget%20Lab%20TCJA%20Report%202024.pdf.

[6] For a discussion of dynamic tax models see CRS Report R43381, *Dynamic Scoring for Tax Legislation: A Review of Models*, by Jane G. Gravelle.

[7] Penn-Wharton Budget Model, *The Budgetary and Economic Effects of Permanently Extending the 2017 Tax Cuts and Jobs Acts' Expiring Provisions*.

of increased labor and capital; it has a large savings response.[8] These last two models do not capture crowding out or demand-side effects.

CBO estimated the revenue gain from the expiration of the TCJA tax cuts, which is the mirror image of the extension, finding negligible effects.[9] It found an initial reduction of GDP with a peak decline of 0.3% in 2027, but an eventual increase in GDP by 2033. The average reduction in GDP is 0.1% over the budget window FY2025-FY2034. These effects reflect the decline in aggregate demand, the increase in labor supply, the changes in investment incentives (positive for owner-occupied housing and negative for business investment), and the crowding in of investment due to the decrease in the deficit. This latter tends to eventually dominate the others, so in the longer run, the effects on GDP would be positive. Overall, CBO estimates these effects to be modest. The CBO estimates are generally consistent with the Budget Lab's projection and indicate that extending the expiring provisions will reduce output in the longer run.

The JCT uses three different models to project the effects of tax changes. They are (1) the Macroeconomic Growth Model (MEG), which allows the effects of aggregate demand and crowding out as well as labor supply (similar to CBO's model); (2) the Overlapping Generations Model (OLG), which is similar to the Penn Wharton model and only captures supply-side effects; and (3) the Dynamic Stochastic General Equilibrium Model (DSGE), which also captures supply-side effects but with an infinite horizon.[10] The MEG model estimated a 0.2% increase in output over the budget horizon. The OLG model estimates a 0.5% increase in the first five years and a 0.7% increase in the second five years. The DSGE model estimates a 0.5% increase in the first five years and a 0.9% increase in the second five years. The extent to which each model is given a weight will determine the JCT's overall estimate of the economic effects of extending the tax cuts.

Individual Tax Reform

Tax Rate Reform

The TCJA set individual marginal tax rates at 10%, 12%, 22%, 24%, 32%, 35%, and 37%. The top rate of 37% applies to taxable income over $600,000 for married joint filers, or $500,000 for single and head of household filers in 2018, indexed for inflation. The rates prior to the TCJA were 10%, 15%, 25%, 28%, 33%, 35%, and 39.6%. Absent the TCJA changes, the top rate of 39.6% would have applied to taxable income over $480,050 for married joint filers, $453,350 for head of household filers, or $426,700 for single filers in 2018, also indexed for inflation.[11] While the bottom two brackets covered the same taxable income levels, these brackets changed for other income levels.[12] Extending the TCJA rate reduction was estimated to lose $2,159 billion through 2034.

[8] The model keeps the after-tax rate of return fixed, which implies an infinitely elastic savings response.

[9] CBO, *How the Expiring Individual Income Tax Provisions in the 2017 Tax Act Affect CBO's Economic Forecast*, December 4, 2024, https://www.cbo.gov/publication/60986.

[10] JCT, *JCT Methodology For Analyzing Macroeconomic Effects 2024*, December 12, 2024, https://www.jct.gov/publications/2024/jct-methodology-for-analyzing-macroeconomic-effects-2024/.

[11] See CRS Report RL34498, *Federal Individual Income Tax Brackets, Standard Deduction, and Personal Exemption: 1988 to 2024*, by Gary Guenther, for historical rate brackets. For further information, congressional offices may contact Jane G. Gravelle.

[12] Tables comparing the rate brackets and rates for the change are in the appendix to CRS Report R45092, *The 2017 Tax Revision (P.L. 115-97): Comparison to 2017 Tax Law*, coordinated by Molly F. Sherlock and Donald J. Marples.

JCT estimated the rate cuts to be the largest source of tax reduction for the individual income tax (excluding certain business provisions which apply to both corporations and individuals), accounting for over 70% of the projected revenue loss. The Budget Lab at Yale finds that the rate cuts favor the top 1% and the eighth decile the most (measured as percentage change in after-tax income), increasing after-tax income by 1.8% to 1.9%, followed by the fourth quintile at 1.6%, the middle quintile at 1.1%, the 90th to 99th percentiles by 0.7%, and the second quintile by 0.3%, with no effect on the bottom quintile.[13] The rate cuts are also a major contributor to aggregate demand effects in that model.

Pass-Through Deduction

Under the new Section 199A in the TCJA, taxpayers may deduct 20% of qualified pass-through business income. The deduction is limited to the greater of 50% of W-2 wages, or 25% of W-2 wages plus 2.5% multiplied by the value of depreciable property (equipment and structures) for higher incomes. Specified service businesses generally may not claim the deduction (these are health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, and services consisting of investment and investment management, and trading of securities, partnership interests, or commodities). The specified service business definition does not include architecture or engineering firms. In 2024, both the deduction limitation and specified service business limitation do not apply if taxable income is less than $191,950 (unmarried) or $383,900 (married filing jointly). These limits are phased in over a $50,000 (single) and $100,000 (married) range, and thus apply fully at $241,950 (single) and $483,900 (married). The thresholds at which these limits begin to apply are adjusted for inflation annually.

JCT estimated the extension of the pass-through deduction to cost $684 billion through 2034.

According to the Budget Lab at Yale, the pass-through deduction has the largest effect, measured as a percentage change in after-tax income, on the top 1%, for whom it increases after-tax income by 1.1%. There is little to no effect in the bottom four quintiles.[14] This effect may arise from two factors. First, higher-income taxpayers are more likely to receive qualifying pass-through business income than lower-income taxpayers. Second, the value of a tax deduction depends upon the taxpayer's marginal income bracket. A deduction is worth more to a taxpayer in the 37% income bracket than a taxpayer in the 10% income bracket. A deduction does not benefit a taxpayer who does not have taxable income.

The pass-through deduction was enacted in part to lower taxes for businesses not taxed as corporations and thus not benefitting from the corporate rate cut (from 35% to 21%). The corporate rate cut is permanent. The provision has been criticized as adding to complexity, especially given the phaseout and exceptions, leading firms to engage in reorganizations to maximize use of the deduction (such as splitting business sectors or combining them). The JCT estimated that 80% of the benefit went to taxpayers with more than $200,000 of income.[15] A Treasury study estimated that the tax savings from the deduction would be largest for businesses in (1) professional services, (2) real estate, (3) construction, (4) retail trade, and (5) manufacturing. The deduction reduced the cost of investment, although—as with the corporate

[13] The Budget Lab, Yale University, *Tax Cuts and Jobs Act Expiration*.

[14] The Budget Lab, Yale University, *Tax Cuts and Jobs Act Expiration*.

[15] Joint Committee on Taxation (JCT), *Tables Related to the Federal Tax System as in Effect 2017 through 2026*, JCX-32r-18, April 24, 2018, https://www.jct.gov/publications/2018/jcx-32r-18/. See also CRS In Focus IF12838, *Selected Issues in Tax Policy: Section 199A Deduction for Pass-Through Business Income*, by Mark P. Keightley.

rate cut—much of the benefit went to returns to preexisting capital.[16] A study of the economic effects of the deduction found little evidence that it affected investment, wages, or employment.[17]

CRS estimates of the incentive effect on investment indicated that extending the pass-through deduction would likely decrease the cost of capital overall by about 0.8% and, using an estimated 0.6% price elasticity, would likely increase overall business investment by 0.5%.[18] The pass-through deduction would thus have an initial incentive effect that is relatively small, largely because much of the tax cut is a windfall to existing investment. These estimates do not reflect crowding out, which would reduce investment.

Limitation on Losses for Noncorporate Taxpayers (Expires in 2028)

Prior to the TCJA, businesses were generally permitted to carry over a net operating loss (NOL) to certain past and future years. Under the passive loss rules, individuals and certain other taxpayers are limited in their ability to claim deductions and credits from passive trade and business activities, although unused deductions and credits may generally be carried forward to the next year. Similarly, certain farm losses may not be deducted in the current year, but can be carried forward to the next year or, uniquely, carried back for two years. For taxpayers other than C corporations, the TCJA disallowed a deduction in the current year for "excess business losses" and treats such losses as a NOL carryover to the following year. An excess business loss is the amount that a taxpayer's aggregate deductions attributable to trades and businesses exceed the sum of: (1) aggregate gross income or gain attributable to such activities; and (2) $250,000 ($500,000 if married filing jointly), adjusted for inflation. For partnerships and S corporations, this provision is applied at the partner or shareholder level.

This provision was extended through 2028 by P.L. 117-169, commonly known as the Inflation Reduction Act. JCT project that extending this provision would increase revenues by $22 billion from FY2029 through FY2034.

Standard Deduction, Child Credit, Personal Exemption

The TCJA repealed the personal exemptions for taxpayers and their dependents, but offset this loss for many taxpayers by increasing the standard deduction and the child tax credit and providing a family credit for other dependents. JCT estimates that continuing to disallow personal exemptions would gain $1.7 trillion over 10 years. Extending the increase in the standard deduction was projected to cost $1.3 trillion over 10 years, and extending the child credit provisions was projected to cost $748 billion, with an offsetting gain of $12 billion from requiring work-eligible Social Security numbers (SSNs) for the child for whom the credit is claimed. Part of the motivation for this set of changes was to simplify tax compliance by not requiring both a child credit and a personal exemption and because fewer taxpayers would itemize deductions. JCT estimates that the net cost of extending all the provisions together through 2034 would be $270 billion.

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[16] Lucas Goodman et al., *Simulating the 199A Deduction for Pass-through Owners*, U.S. Department of the Treasury, Office of Tax Analysis, Working Paper 118, May 2019, https://home.treasury.gov/system/files/131/WP-118.pdf.

[17] Lucas Goodman et al., *How Do Business Owners Respond to a Tax Cut? Examining the 199A Deduction for Pass-through Firms*, National Bureau of Economic Research, Working Paper 28680, January 2024, https://www.nber.org/papers/w28680.

[18] See CRS Report R48153, *Marginal Effective Tax Rates on Investment and the Expiring 2017 Tax Cuts*, by Jane G. Gravelle and Mark P. Keightley. This calculation is based on the difference in the cost of capital with and without the pass-through deduction, given certain other provisions have been enacted. See Table 9.

According to the Budget Lab at Yale, this combination of provisions would increase after-tax income in the bottom three quintiles (0.8% in the lowest, 0.9% in the second, and 0.4% in the third) but have little effect on the fourth; decrease income in the 80th to 99th percentiles, and have no measurable effect on the top 1%.[19]

Standard Deduction

The standard deduction is the sum of the basic standard deduction and, if applicable, the additional standard deduction for the blind or elderly. The basic standard deduction amount varies by the taxpayer's filing status and is adjusted annually for inflation. Absent TCJA changes, the basic standard deduction amounts for 2018 would have been $6,500 for single filers, $9,550 for heads of household filers, and $13,000 for married taxpayers filing jointly. The TCJA increased the dollar amounts of the basic standard deduction through 2025. Specifically, for 2018, the basic standard deduction amounts were $12,000 for single individuals, $18,000 for heads of household, and $24,000 for married individuals filing jointly. After 2018, these amounts are adjusted for inflation using the chained Consumer Price Index (CPI). The additional standard deduction for the blind and elderly is unchanged. JCT estimate that extending this change through 2034 would cost $1.3 trillion.

According to the Budget Lab at Yale, the increase in the standard deduction offered the largest benefits to the three middle quintiles, with a relatively smaller benefit to the top quintile, many of whom itemize or had some of the benefit of the larger standard deduction offset by the itemized deductions they had previously claimed. The benefit was also limited for those with very low incomes, who pay low marginal tax rates or no taxes, making a reduction in taxable income less valuable than for those subject to higher tax rates.

The choice to move away from itemizing is also affected by specific changes in itemized deductions, most notably the $10,000 cap on the deduction of state and local taxes. The reduction in the share of taxpayers who itemize deductions has implications for the incentive effects that itemized deductions present for owner-occupied housing and charitable contributions. These issues will be discussed below in the section on itemized deductions.

Child Credit and Credit for Other Dependents

Prior to the TCJA, the child tax credit allowed a taxpayer to reduce their federal income tax liability by up to $1,000 per qualifying child. Taxpayers with little or no federal income tax liability were eligible to receive the child tax credit as a refundable credit—the additional child tax credit, or ACTC. The maximum ACTC was $1,000 per child, the same as the credit as a whole. The ACTC equaled 15% ("the refundability rate") of the family's earnings in excess of $3,000 ("the refundability threshold"). The child tax credit began to phase out for taxpayers with income over a phaseout threshold: $75,000 for single parents and $110,000 for married taxpayers filing joint returns. None of the parameters of the child credit were indexed for inflation. Taxpayers claiming the child credit (including the ACTC) had to provide either a Social Security number or individual taxpayer identification number (ITIN) for the child, issued before the due date of the return.

The TCJA increased the child credit to $2,000 per qualifying child. It also increased the maximum ACTC to $1,400 per qualifying child in 2018, which was adjusted for inflation, and is $1,700 in 2024. The act lowered the ACTC refundability threshold to $2,500 and increased the

[19] The Budget Lab, Yale University, *Tax Cuts and Jobs Act Expiration*.

phaseout thresholds to $200,000 for unmarried taxpayers and $400,000 for married taxpayers filing jointly. These changes offset the loss of personal exemptions for dependents for many taxpayers.[20]

The TCJA also modified the identification requirement for the credit: taxpayers must provide the work-eligible Social Security number for each child claimed for the credit. The SSN must have been issued before the due date of the return.

Further, the TCJA created a new credit for nonchild-credit-eligible dependents (children ineligible for the child tax credit or older nonchild dependents). Otherwise, eligible dependents who are not U.S. citizens and are residents of Mexico or Canada do not qualify as nonchild-credit-eligible dependents. The credit is equal to $500 per non-child-credit-eligible dependent. The amount is not annually adjusted for inflation. The phaseout parameters of the child credit (e.g., phaseout thresholds of $400,000 married filing jointly, $200,000 other taxpayers, 5% phaseout rate) apply to the credit for other dependents. Taxpayers do not have to provide an SSN for nonchild-credit-eligible dependents.

JCT estimate that extending all of the changes to the child tax credit through 2034 would decrease revenues by $735 billion. This amount includes $748 billion for the expansion of the child tax credit and credit for other dependents, offset by $12 billion from the SSN requirement (figures do not add to total due to rounding). The Budget Lab at Yale found that the increased child credits benefited all income categories except the top 1%, with the benefits largest in the middle of the income distribution.[21]

Repeal of Personal Exemptions

To calculate taxable income prior to the TCJA, taxpayers could subtract from their adjusted gross income (AGI) a "personal exemption" for each member of their household—themselves, their spouse (if married), and their dependents. For 2018, absent TCJA changes, the personal exemption amount would have been $4,150. The TCJA eliminated the person exemption. JCT estimates that extending this change alone would raise an additional $1.7 trillion in revenue through 2034.

According to the Budget Lab at Yale, the elimination of the personal exemption had the largest effects on the upper-middle part of the income distribution, with no effects on the top 1% and smaller effects on the lowest quintile.[22]

Changes in Itemized Deductions

According to JCT estimates, extending all of the TCJA's changes to itemized deductions together would gain $1.2 trillion through 2034, implying a gain of roughly $1.4 trillion through 2035. Most of the projected revenue gain is due to the limit on the state and local tax deduction. The Committee for a Responsible Federal Budget estimates that extending all of the provisions but removing the cap on the state and local deduction would cost $1.2 trillion through 2035.[23]

[20] For a discussion of the effects of refundable credits on poverty, especially for children, see CRS In Focus IF12820, *Selected Issues in Tax Policy: The Child Tax Credit*, by Brendan McDermott.

[21] The Budget Lab, Yale University, *Tax Cuts and Jobs Act Expiration*.

[22] The Budget Lab, Yale University, *Tax Cuts and Jobs Act Expiration*.

[23] Committee for a Responsible Federal Budget, "SALT Cap Expiration Could Be Costly Mistake," August 28, 2024, https://www.crfb.org/blogs/salt-cap-expiration-could-be-costly-mistake.

Along with the increase in the standard deduction, these provisions reduced the share of returns that itemize from 31% in 2017 to 9% in 2021. Any incentives created by itemized deductions are irrelevant to those claiming the standard deduction, so the reduction in itemization rates suggests these incentives are relevant to fewer taxpayers than they were prior to the TCJA. Claiming the standard deduction can also simplify filing for many households. One recent study estimated that households value the cost of itemizing at an average of 0.6%-0.8% of adjusted gross income.[24]

The combination of increases in the standard deduction and limits on the state and local tax deduction, along with other minor changes, has direct and indirect effects on owner-occupied housing by reducing subsidies from the mortgage interest and property tax deductions. These provisions, along with rate changes, increased the implicit rental cost for owner-occupied housing (the amount necessary to cover the return on investment, the tax benefits, and economic depreciation) by about 5%.[25] Nevertheless, evidence suggests there is unlikely to be much effect on home ownership rates, because the major barrier to home ownership is the down payment and closing costs.[26] Reintroducing these homeowner subsidies could result in a potentially small increase in house values, because some of the benefits are capitalized in asset values.

The reduction in itemizers, along with the lower tax rates, could also affect charitable giving. Using the central tendency of estimated responses in the literature, CRS estimates the changes would reduce charitable giving by about 3%, although the evidence suggests that charitable deductions remained relatively constant as a percentage of GDP over the period before and after the tax revision.[27]

The increased taxes due to the change in itemized deductions are concentrated in the top 10% of the income distribution.[28]

Charitable Contributions Deduction

Taxpayers who itemize their deductions can deduct charitable donations of cash or property to certain organizations, including public charities; federal, state, local, and Indian governments; private foundations; and other less common types of qualifying organizations. There are limitations on the total dollar amount that can be deducted by a taxpayer in a given tax year. The limitations are defined as a percentage of the taxpayer's adjusted gross income. Most cash contributions are generally limited to 50% of the taxpayer's AGI. (The limit is generally 30% of AGI for cash contributions to nonoperating private foundations.) The TCJA increased the percentage limit for charitable contributions of cash to public charities and other qualifying organizations to 60% of AGI. The 30% of AGI limitation on cash donations to private nonoperating foundations is unchanged.

Although this change was favorable to charitable contributions, it affects few taxpayers, because the charitable deduction as a share of income was 6% in 2021, the most recent year for which

[24] Youssef Benzarti, "How Taxing is Tax Filing? Using Revealed Preferences to Estimate Compliance Costs," *American Economic Journal: Economic Policy*, November 2020, vol. 12, no. 4 (November 2020), pp. 38-57.

[25] CRS Report R48153, *Marginal Effective Tax Rates on Investment and the Expiring 2017 Tax Cuts*, by Jane G. Gravelle and Mark P. Keightley.

[26] CRS In Focus IF11540, *The Mortgage Interest Deduction*, by Mark P. Keightley and CRS In Focus IF12789, Selected Issues in Tax Policy: The Mortgage Interest Deduction, by Mark P. Keightley.

[27] CRS Report R45922, *Tax Issues Relating to Charitable Contributions and Organizations*, by Jane G. Gravelle, Donald J. Marples, and Molly F. Sherlock.

[28] The Budget Lab, Yale University, *Tax Cuts and Jobs Act Expiration*.

data are available. The highest-income group, over $10 million of adjusted gross income, also made contributions equal to 6% of income.[29]

State and Local Tax (SALT) Deduction Cap

State and local income and property taxes, as well as foreign property taxes, are deductible as an itemized deduction. State and local sales taxes paid may be deducted in lieu of income taxes. The TCJA limited itemized deductions for state and local income, sales, and property taxes to $10,000. No deduction is allowed for foreign real property taxes. Property taxes associated with carrying on a trade or business are fully deductible.

State and local tax deductions are especially likely to occur in high-income and high-tax states. In 2020, the share of filers claiming the deduction ranged from 3% in West Virginia to 21% in Maryland.[30] Because almost all itemized deductions include state and local taxes, the reduction in the share of taxpayers who took the SALT deduction was similar to the overall reduction in the share of taxpayers who itemized. The deductions are also concentrated in the top 10% of the income distribution.

Mortgage Interest Deduction

Prior to the TCJA, mortgage interest was deductible on the first $1 million of combined (first and second home) acquisition debt, plus interest on $100,000 of home equity debt. The TCJA limited the amount of mortgage interest that may be deducted to the interest paid on the first $750,000 of mortgage debt. The limitation applies to new loans incurred after December 15, 2017. Mortgage debt that is the result of a refinance on or before December 15, 2017, is exempt from the reduction to the extent that the new mortgage does not exceed the amount refinanced. No deduction is allowed for interest payments on new or existing home equity debt, if such debt is used for purposes unrelated to the property securing the loan.

Personal Casualty Loss Deduction

Taxpayers can claim an itemized deduction for noncompensated personal casualty losses. Prior to the TCJA, casualty losses were generally deductible to the extent they exceeded $100 per casualty, and to the extent that the aggregate net casualty losses exceeded 10% of adjusted gross income.

The TCJA limited the itemized deduction for casualty losses to only apply to losses resulting from a disaster declared by the President under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.[31]

Subsequent legislation altered the casualty loss deduction for eligible disaster-related losses by allowing the deduction regardless of whether the taxpayer itemizes, eliminating the 10% of income floor, and raising the dollar floor to $500. These changes applied only to losses related to

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[29] Internal Revenue Service, "Statistics of Income, Table 2.1: Individual Income Tax Returns with Itemized Deductions: Sources of Income, Adjustments, Itemized Deductions by Type, Exemptions, and Tax Items," https://www.irs.gov/statistics/soi-tax-stats-individual-statistical-tables-by-size-of-adjusted-gross-income.

[30] Urban-Brookings Tax Policy Center, "How Does the Federal Income Tax Deduction for State and Local Taxes Work?," The Tax Policy Briefing Book, updated January 2024, https://www.taxpolicycenter.org/briefing-book/how-does-federal-income-tax-deduction-state-and-local-taxes-work.

[31] CRS In Focus IF12574, *The Casualty and Theft Loss Deduction*, by Brendan McDermott.

specific disasters or over specified periods of time. Disasters that occurred after December 27, 2020, do not qualify.

Itemized Deduction for Miscellaneous Expenses

Prior to the TCJA, individual taxpayers who itemized their deductions could deduct miscellaneous expenses to the extent that they collectively exceeded 2% of AGI. Expenses subject to the 2% floor included unreimbursed employee expenses, tax preparation fees, and certain other expenses. The TCJA temporarily suspended itemized deductions for miscellaneous expenses for tax years 2018 through 2025.

Overall Limitation on Itemized Deductions

For taxpayers with AGI above certain thresholds (inflation adjusted; would have equaled $320,000 for married taxpayers filing jointly and $266,700 for singles in 2018), the total amount of itemized deductions is limited under permanent law (i.e., absent TCJA changes). For affected taxpayers, the total of certain itemized deductions is reduced by 3% of the amount of AGI exceeding the threshold. The total reduction, however, cannot be greater than 80% of the deductions. The itemized deductions not subject to the limitation include deductions for medical and dental expenses, investment interest, qualified charitable contributions, and casualty and theft losses. The TCJA repealed the overall limitation on itemized deductions through 2025.

This provision does not function as a limit on the value of itemized deductions (unless it meets the maximum) because it is triggered by changes in income. It is equivalent to increasing the marginal tax rate by 3% for affected taxpayers and should be viewed as a rate reduction. For example, an affected taxpayer in the top pre-TCJA bracket of 39.6% actually has a tax rate of 40.8% (39.6% times 1.03) or 1.2 percentage points higher. The direct rate reduction is 2.6 percentage points (39.6% minus 37%) Thus, overall, the effective tax rate for these taxpayers who itemize decreases by 3.8 percentage points (40.8% minus 37%).

In 2017, $54.5 billion in deductions were disallowed because of the limit. Assuming a 36% tax rate, this decline in deductions would have raised revenues by $20 billion. Based on the growth of the cost between 2017 and the FY2026-FY2035 JCT projections, that amount would be about $40 billion per year or $400 billion over 10 years for an extension.

Other Individual Provisions

ABLE Account Contribution Limit

ABLE (Achieving a Better Life Experience) accounts are tax-favored savings accounts intended to benefit qualifying disabled individuals (referred to as “designated beneficiaries”). Prior to the TCJA, ABLE accounts could not receive aggregate contributions in excess of the annual gift tax exemption, which is $18,000 in 2024.

The TCJA increased the annual contribution limits on ABLE accounts in certain circumstances. Specifically, a designated beneficiary can contribute an additional amount to their ABLE account (above the annual gift-tax exclusion amount) equal to the lesser of (1) the federal poverty level for a one-person household or (2) the individual’s compensation for the year. While the TCJA did not change the base gift tax exclusion amount, it changed the inflation adjustment to chained CPI.

Additionally, the TCJA made contributions to an ABLE account by that account’s beneficiary eligible for the saver’s credit through 2025. The saver’s credit is a nonrefundable credit of up to $2,000 per individual for saving in certain vehicles, previously only including certain retirement accounts. Under current law, the saver's credit will be replaced with a new saver's match starting in 2027.[32]

JCT estimates that extending the increase in qualified contributions to ABLE accounts through 2034 would cost less than $500,000, while extending the expansion of the savers credit would cost $2 million.

529 to ABLE Account Rollover

Rollovers from a 529 plan (education savings plan) to an ABLE account (including amounts below the annual ABLE account contribution limit) were taxable prior to the TCJA. The TCJA allows tax-free rollovers from a 529 account to an ABLE account that are equal to or less than the annual ABLE contribution limit. These rollovers are not subject to taxation provided that the ABLE account is that of the designated beneficiary of the 529 account (or a member of the designated beneficiary's family). The portion of the rollover in excess of the annual contribution limit is taxable.

JCT estimates that extending this provision through 2034 would cost $4 million.

Combat Zone Tax Exclusion

Members of the Armed Forces serving in a combat zone (and their families) are entitled to several tax benefits, including (but not limited to) (1) an exemption from income and employment ("payroll") taxes on certain military pay received during any month in which the member served in a combat zone; (2) an exemption from income taxes during the year that the member dies while serving in a combat zone and the year prior; (3) special estate tax rules where death occurs in a combat zone; (4) special benefits to surviving spouses when death occurs in a combat zone; (5) an extension of tax deadlines, including for filing returns, making payments, claiming credits or refunds, and certain other deadlines; and (6) an exclusion of telephone excise taxes.[33] The TCJA grants combat zone tax benefits to members of the Armed Forces in the Sinai Peninsula of Egypt, if as of the date of enactment, any member of the Armed Forces is entitled to special pay under Section 310 of Title 37 of the *U.S. Code* (relating to special pay and duty pay subject to hostile fire or imminent danger) as a result of serving in this area. This provision is generally effective beginning June 9, 2015, and remains in effect while this condition is met or until the statutory sunset in 2025, whichever comes first.

JCT estimates that extending this provision through 2034 would cost $7 million.

Discharged Student Loans

Generally, gross income includes discharged student loan debt, hence these amounts are typically taxable. There are exceptions to this general rule, but these exceptions did not include the death or disability of the student prior to 2018. The TCJA expanded the categories of nontaxable discharged student loan debt to include student loan debt that is discharged on account of the death or permanent and total disability of the student through 2025. Lawmakers later expanded this provision to cover all discharged student loan debt through 2025. The current-law provision is much broader than the original 2017 provision.

[32] CRS In Focus IF11159, *The Retirement Savings Contribution Credit and the Saver's Match*, by Brendan McDermott.

[33] The six provisions are found in the Internal Revenue Code (IRC): (1) IRC Sections 112 and 3401(a)(1), (2) IRC Section 692, (3) IRC Section 2201, (4) IRC Sections 2(a)(3) and 6013(f)(1), (5) IRC Section 7508, and (6) IRC Section 4253(d).

Loans available for discharge cover tuition and fees, books and other supplies for courses, room and board, and transportation.

JCT estimated the revenue loss of the broader provision at $7.3 billion. In the original 2017 legislation, this provision was estimated to cost $85 million over the next 10 years.

Bicycle Commuter Reimbursement

Prior to the TCJA, up to $20 per month in employer reimbursements for qualifying bicycle commuting expenses were excludable from the employee's income and wages and hence not subject to income or employment taxes. The TCJA repealed the exclusion for employer-provided bicycle commuter fringe benefits.

JCT estimated that extending this provision through 2034 would gain $160 million.

Moving Reimbursements Exclusion

Prior to the TCJA, qualified moving expense reimbursements from an employer were generally excludable from an employee's gross income and hence not subject to income or employment taxes. The TCJA repealed the exclusion for employer-provided qualified moving expense reimbursements (other than for members of the Armed Forces).

JCT estimated that extending this provision through 2034 would gain $7.4 billion.

Moving Expenses Deduction

Prior to the TCJA, taxpayers could claim an above-the-line deduction for moving expenses incurred as a result of work at a new location, subject to certain conditions regarding the individual's employment status as well as the distance of the move. Special rules applied to members of the Armed Forces. The TCJA repealed the deduction for moving expenses (other than for members of the Armed Forces).

JCT estimated that extending this provision through 2034 would gain $9.8 billion.

Wagering Losses Deduction

A taxpayer may deduct gambling losses up to the amount of gambling winnings that are included in gross income. Prior to the TCJA, professional gamblers could also deduct business expenses related to their gambling activities, making it possible for them to generate a net operating loss. The TCJA included the deductible business expenses of professional gamblers in the definition of losses, such that the total deductions attributable to professional gambling were limited to winnings included in gross income. This revision provides that gambling losses include deductible expenses incurred in carrying on the gambling activity.

JCT estimated that extending this provision through 2034 would gain $47 million.

Estate and Gift Tax

Estate and gift taxes are levied on transfers after applying a cumulative exclusion that would have been a $5.6 million per decedent exclusion in 2018 (the $5 million per decedent amount in statute adjusted annually for inflation) absent the TCJA changes. The tax rate is 40%. The TCJA increased the federal estate and gift exclusion to $10 million per decedent (adjusted for inflation).[34]

JCT estimated that extending this provision through 2034 would cost $167 billion.

The share of decedents subject to the estate tax is small, estimated at 0.07% of decedents. This share was about 0.2% of decedents prior to the TJCA's exclusion increase.

Concern about the estate tax often centers on farms and family businesses, although the share of farm estates that pay taxes is also small. According to the U.S. Department of Agriculture (USDA), about 0.2% of estates of principal operators of farms would be subject to the tax, or approximately 89 estates.[35] Another USDA study projected that the sunsetting of the larger exemption in 2026 would increase the share of farmers subject to the tax from 0.3% to 1.0%.[36]

Data for businesses are more difficult to obtain, but the Urban-Brookings Tax Policy Center (TPC) estimates that of estates with more than half their assets in farms or businesses, 300 will pay the estate tax in 2023, accounting for 8% of taxable estates and 14% of estate tax revenue.[37] Overall, the TPC estimates that no small business or farm with less than $5 million in business assets will pay the estate tax. It also estimates that the top 10% of the income distribution pays 90% of the tax, the top 5% pays 83%, the top 1% pays 65%, and the top 0.1% pays 29%.

The TPC's estimate of 300 taxable estates with more than half their assets in farms or businesses appears to be about the same as the share of all estates subject to the tax, estimated at 0.09% of decedents.[38]

Individual Alternative Minimum Tax

For certain taxpayers, a tax is imposed on an individual's alternative minimum taxable income (primarily income without a standard deduction, state and local income deduction, or deductions for personal exemptions) less an exemption amount. For 2018, the exemption would have been $55,400 for singles and $86,200 for married couples prior to the TCJA's changes. The exemption phased out beginning at $123,100 for singles and $164,100 for married couples. The tax equaled 26% of income (after applying the exemption) below thresholds of $95,750 for single filers and $191,500 for married taxpayers filing joint returns. The tax was 28% on income above these

[34] See CRS Report R48183, *The Estate and Gift Tax: An Overview*, by Jane G. Gravelle, for information on the estate and gift tax.

[35] U.S. Department of Agriculture (USDA), Economic Research Service, "Federal Estate Taxes," https://www.ers.usda.gov/topics/farm-economy/federal-tax-issues/federal-estate-taxes/.

[36] Tia M. McDonald and Ron Durst, *An Analysis of the Effect of Sunsetting Tax Provisions for Family Farm Households*, USDA, Economic Research Service, Economic Research Report no. 328, February 2024, https://www.ers.usda.gov/webdocs/publications/108636/err-328.pdf?v=4877.

[37] Tax Policy Center, "Who Pays the Estate Tax?," The Tax Policy Briefing Book, updated January 2024, https://www.taxpolicycenter.org/briefing-book/who-pays-estate-tax#:~:text=According%20to%20TPC's%20estimates%2C%20no,Tax%20Cuts%20and%20Jobs%20Act.

[38] In 2022, the population of the United States was 333.3 million and the number of deaths was 3.27 million, indicating a death rate of 1%. See Statista, "Resident Population of the United States from 1950 to 2022," https://www.statista.com/statistics/183457/united-states-resident-population/, and Statista, "Number of deaths in the United States from 1990 to 2022," https://www.statista.com/statistics/195920/number-of-deaths-in-the-united-states-since-1990/. There are 33.2 million businesses in the United States: U.S. Small Business Administration, Office of Advocacy, "Frequently Asked Questions About Small Business," March 2023, https://advocacy.sba.gov/wp-content/uploads/2023/03/Frequently-Asked-Questions-About-Small-Business-March-2023-508c.pdf. If 1% of the owners dies each year, that is 332,000 deaths, and 300 taxable estates is 0.09%.

thresholds, and the thresholds were indexed for inflation. Prior-year AMT amounts could be credited against regular tax.

The TCJA increased the AMT exemption amounts to $70,300 for unmarried taxpayers (single filers and heads of households) and $109,400 for married taxpayers filing joint returns. It also increased the exemption phaseout to $500,000 for singles and $1 million for married taxpayers filing jointly. These amounts are indexed for inflation.

JCT estimated that extending this provision through 2034 would cost $1.4 trillion.

The alternative minimum tax was also affected by some other changes in preferences, including the elimination of personal deductions, the increase in the standard deduction, and the cap on state and local tax deductions, because these were items added back to the minimum tax base. Overall, these would be likely to reduce the size of alternative minimum taxable income, so the revenue estimate would be smaller if scored after these items. The original JCT estimates for the TCJA changes scored the AMT after these provisions,[39] so the revenue cost would be smaller than the current estimate, which was scored before them.

The TCJA changes decreased the share of returns paying the alternative minimum tax from 3.3% of taxpayers in 2017 to 0.2% in 2021. Over the years since the AMT's enactment, it became more focused away from very high-income individuals, largely because capital gains tax benefits were no longer included in the base, toward taxpayers who had higher incomes but were not at the very top of the income scale. The $200,000 to $1 million adjusted gross income group was three times more likely to be subject to the tax than the group with AGI above $1 million.[40] The Budget Lab at Yale estimated that the main effect of extending the AMT would be on taxpayers in the 90% to 99% part of the income distribution, where extension would increase after-tax income by 2.8%.[41] Its analysis found a 0.9% increase in the 99% to 99.9% group and a 0.3% effect on the 80% to 90% group, with no effects elsewhere.

Business Provisions

Expensing of Equipment (Completes Phaseout in 2026)

Assets such as equipment and buildings are depreciated over time. Prior to the TCJA, bonus depreciation for equipment, purchased software, and structures with recovery periods no more than 20 years was allowed an immediate deduction of 50% for assets placed in service in 2017, 40% in 2018, and 30% in 2019. Long-lived property was not eligible. The phasedown was delayed for certain property, including property with a long production period. Additionally, under separate permanent law, smaller businesses (formally, those with annual investment of $1,220,000 or less in 2024; adjusted annually for inflation) may elect under Section 179 to expense investments (claim 100% bonus depreciation).

The TCJA allowed full and immediate expensing (100% bonus depreciation) for business assets of businesses too large to qualify for Section 179 expensing through 2022; the bonus percentage is reduced by 20% per year for four years starting in 2023. The TCJA excluded regulated public utilities (but eliminated the interest limit for these assets) and added theatrical movies and television programs to eligible assets. The phasedown was delayed for property with a long

[39] JCT, *Estimated Budget Effects of The Conference Agreement for H.R.1, The Tax Cuts and Jobs Act*, December 18, 2017, JCX-67-17, https://www.jct.gov/publications/2017/jcx-67-17/.

[40] CRS In Focus IF10705, *Tax Reform: The Alternative Minimum Tax*, by Donald J. Marples.

[41] The Budget Lab, Yale University, *Tax Cuts and Jobs Act Expiration*.

production period. This provision also applies to computer software. Expensing is not available to real estate and farming businesses that elect out of the limit on interest deductions.

JCT estimated that extending this provision through 2034 would cost $378 billion.

The cost would be higher for a permanent expensing provision. The 10-year cost is offset by gains beginning in 2024, as expensing costs are more than offset by the reduction of depreciation deductions that would otherwise occur over a period of years. For a permanent provision, there would be a steady-state loss due to growth in the economy.

Full expensing leads to an effective zero tax rate at the firm level on new tangible business investment entirely with equity, and to negative tax rates when investment is financed in part by borrowing. Incentives for equipment investment favor those investments relative to investment in buildings, although they lead to more uniform treatment with respect to investment in most intangibles, which are currently expensed or eligible for a credit. The effects on investment depend on the degree to which expensing affects the user cost of capital, which is a measure of how much must be paid for the use of equipment (including taxes, the after-tax return, and the wear and tear on the asset, or depreciation), and how investment responds to changes in the user cost. An estimate using the CRS marginal effective tax rate model found that the user cost would be 4.5% higher for corporations without expensing compared to full expensing.[42] Corporate equipment is about 68% of total corporate and noncorporate business investment. The estimate for noncorporate equipment is not relevant because it includes both expensing and other provisions (rate increases and loss of the pass-through deduction), but it would probably be similar to the corporate change. The elasticity (percentage change in quantity divided by percentage change in price) is around 0.6, so the estimated percentage change in investment is a decline of about 2.7%.[43] These effects may be smaller—1.7%, since about 60% of investment is by firms that adopt bonus depreciation.[44] The change in user cost for software is smaller, 2.9%. CBO estimated a similar reduction in the overall user cost of equipment, 4.3%, using an elasticity of 0.7, indicating an estimated 3.0% increase in investment.[45] CBO estimated the overall effect on all types of business investment to be a reduction in user cost of 2.3%, an increase in investment of 1.5%, and an increase in GDP of 0.3%.

CRS estimates that the combination of expensing for equipment, expensing for research, and returning to the 2018 interest limits (the last is relatively small) would reduce the overall cost of capital by 3.3%, indicating an increase in investment of 2.0%.

These percentages do not reflect the effects of crowding out, which would reduce them (and, according to the CBO overall effects, lead to a reduction in overall investment).

Citrus Plants Lost by Casualty (Expires in 2026)

The uniform capitalization (UNICAP) rules address the method for determining costs that taxpayers are required to capitalize or treat as inventory. They generally apply to property produced in a trade or business or acquired for resale. One exception is for edible plants lost or damaged by reason of a casualty or similar event. The exception may apply to (1) the taxpayer's

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[42] CRS Report R48153, *Marginal Effective Tax Rates on Investment and the Expiring 2017 Tax Cuts*, by Jane G. Gravelle and Mark P. Keightley.

[43] CRS Report R48153, *Marginal Effective Tax Rates on Investment and the Expiring 2017 Tax Cuts*, by Jane G. Gravelle and Mark P. Keightley.

[44] Thomas Brosny et al., "Business Uptake of Investment Expensing," *Tax Notes*, October 3, 2022. pp. 27-33.

[45] CBO, *CBO's Model for Estimating the Effects on New Investment of Deductions to Recover the Cost of Capital*, December 4, 2024, https://www.cbo.gov/publication/60985.

cost of replanting such plants and (2) costs paid or incurred by other persons if the taxpayer has more than a 50% equity interest in the plants at all times during the year and the other person owns any of the remaining interest and materially participates in the planting or similar activities.

The TCJA expanded the existing edible plants exception for costs paid or incurred after December 22, 2017, for citrus plants lost due to a casualty. Under the provision, the existing exception also applies to persons other than the taxpayer if (1) the taxpayer has an equity interest of at least 50% in the replanted plants at all times during the year and the other person owns any of the remaining interest, or (2) the other person acquired the taxpayer's entire equity interest in the land on which the plants were located and the replanting is on such land.

An estimate for the cost of extending this provision was not available in the most recent JCT projections, but the committee estimated it at $11 million over 10 years in its 2023 projections, which were generally smaller because the budget period went through 2033.[46]

Amortization of Research Expenditures

Prior to the TCJA, research expenditures could be deducted immediately (expensed). The TCJA required, effective in 2022, that costs be amortized and recovered in equal amounts over five years. This provision does not expire, but Congress has considered proposals to reinstate expensing.[47]

Under Section 174 of the Internal Revenue Code, a business had three choices for recovering its qualified expenditures for qualified research prior to the TCJA. One is to deduct as a current expense some or all of its qualified spending in a tax year. A second option is to capitalize that spending and recover it over the useful life of any asset resulting from the research; this life cannot be less than five years. Finally, a business may elect to amortize its research expenditures over 10 years. Research expenditures not deductible under Section 174 must be capitalized under Sections 263(a) (capital expenditures) or 263A (inventory). The following expenses qualify for the Section 174 deduction: (1) wages and salaries of employees directly engaged in qualified research, (2) the cost of operating and maintaining research facilities (e.g., utilities and depreciation), and (3) expenditures for materials and supplies used in qualified research. No deduction is allowed for expenditures on land and depreciable or depletable property used in such research.

The TCJA requires "specified research or experimental expenditures" related to domestic research to be capitalized and amortized over 5 years, beginning with the midpoint of the tax year when the expenditures were incurred or paid. The recovery period rises to 15 years for qualified expenditures related to foreign research. The TCJA repealed the option to amortize qualified research expenditures over 10 years and the option to deduct those expenditures in full as a current expense. The new provision applies to amounts paid or incurred in taxable years beginning after December 31, 2021. It also appears to eliminate the basis adjustment, which reduces the amount of expenditures that can be deducted by the research credit.[48]

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[46] The detailed estimates are in the supplemental data accompanying CBO, *Budgetary Outcomes Under Alternative Assumptions About Spending and Revenues*, May 16, 2023, https://www.cbo.gov/publication/59154#data.

[47] CRS In Focus IF12572, *Business Tax Provisions in the Tax Relief for American Families and Workers Act of 2024*, by Jane G. Gravelle.

[48] For a discussion of the credit, see CRS Report RL31181, *Federal Research Tax Credit: Current Law and Policy Issues*, by Gary Guenther. For further information, congressional offices may contact Jane G. Gravelle. For a discussion of the basis adjustment see CRS In Focus IF12815, *How the "Tax Cuts and Jobs Act" (TCJA, P.L. 115-97) Changed Cost Recovery and the Tax Credit for Research*, by Jane G. Gravelle and Mark P. Keightley.

The JCT's most recent estimates did not include extension of this provision. The move from expensing of research to five-year amortization was estimated by the JCT at the time to gain $120 billion over six years beginning in FY2022. This gain would become smaller over time. The Penn-Wharton Budget Model estimates a cost of $188 billion for FY2025-FY2034.[49]

Research expenditures are also eligible for a tax credit, and the amount of expenditures is reduced by the credit for expensing under Section 280C of the tax code. The language in the TCJA was changed to reduce the credit by the amount of the credit in excess of the deduction, effectively eliminating the basis adjustment.[50] These features together lead to significant negative effective tax rates (effectively a subsidy) under either expensing or five-year amortization, largely due to the credit. Some argue evidence suggests that there is underinvestment in research because the social benefits of the assets exceed the private benefits. That is, companies cannot fully capture the earnings from investments in research. Both expensing and the R&E credit, they argue, are often justified on this basis.[51] The increase in the user cost of research investments by the corporate sector, where almost all of the R&D assets are held, is estimated by CRS at 2.1% due to the move to amortization and elimination of the basis adjustment.[52] CBO estimates a larger effect on intangibles of 5.4%.[53]

Deduction for Interest Paid

Before the TCJA, the deduction for net interest was limited to 50% of adjusted taxable income for firms with a debt-equity ratio above 1.5. Interest above the limitation may be carried forward indefinitely both before and after the TCJA. The TCJA generally limits deductible interest to 30% of adjusted taxable income for businesses with gross receipts greater than $25 million. Under prior law and the temporary provisions of the TCJA, this interest limit applied to earnings (income) before interest, taxes, depreciation, amortization, or depletion (referred to as EBITDA). After 2021, the TCJA permanently changed the measure of income to earnings (income) before interest and taxes (referred to as EBIT). This change results in a smaller income base and a lower ceiling on the deduction. The provision also excepts floor plan financing. Regulated public utilities are not subject to the limit, and real estate and farm businesses can elect out of it. The Tax Relief for American Families and Workers Act of 2024 proposes to reinstate EBITDA as the basis for the limit.[54]

This provision was not included in the latest JCT estimates. The JCT's original estimates in the 2017 TCJA score for all of the changes in the interest deduction limit projected a revenue gain of $253 billion over a 10-year period.[55] There was an increase in the gain of about 50% with the

[49] Penn-Wharton Budget Model, *The Budgetary and Economic Effects of Permanently Extending the 2017 Tax Cuts and Jobs Acts' Expiring Provisions*.

[50] CRS In Focus IF12815, *How the "Tax Cuts and Jobs Act" (TCJA, P.L. 115-97) Changed Cost Recovery and the Tax Credit for Research*, by Jane G. Gravelle and Mark P. Keightley.

[51] For a discussion of this evidence see CRS Report RL31181, *Federal Research Tax Credit: Current Law and Policy Issues*, by Gary Guenther.

[52] CRS Report R48153, *Marginal Effective Tax Rates on Investment and the Expiring 2017 Tax Cuts*, by Jane G. Gravelle and Mark P. Keightley.

[53] CBO, *CBO's Model for Estimating the Effects on New Investment of Deductions to Recover the Cost of Capital*, December 4, 2024, https://www.cbo.gov/publication/60985. It appears that CBO does not eliminate the basis adjustment.

[54] CRS In Focus IF12572, *Business Tax Provisions in the Tax Relief for American Families and Workers Act of 2024*, by Jane G. Gravelle.

[55] JCT, *Estimated Budget Effects of The Conference Agreement for H.R.1, The Tax Cuts and Jobs Act*.

move from EBITDA to EBIT. The Penn Wharton Budget Model estimates a revenue loss of $71 billion from FY2025 through FY2034.[56]

One study estimates that the interest limit disallows 15% of interest deductions under EBIT and 7.5% under EBITDA for large corporations.[57]

The restrictions on interest, called thin capitalization rules, were partially enacted to address concerns about large multinational businesses locating borrowing in the United States as a method to shift profits out of the United States and to foreign, lower-tax jurisdictions. In addition, debt-financed investments are favored by the tax law because nominal interest is deducted (i.e., the gains from repaying debt in cheaper dollars are not recognized), while most interest is not taxed to the lender, resulting in a subsidy rather than a tax. This favoritism may be offered as a reason for limiting interest deductions.

Deductions for Employer Meals

Under both prior law and the TJCA, deductions for food or beverages are generally limited to 50% of expenses (with certain exceptions). Meals provided for the convenience of the employer can be excluded from an employee's gross income. For 2018 through 2025, the TCJA expanded the 50% limit to include employer expenses associated with providing meals to employees through an eating facility meeting *de minimis* fringe requirements for the convenience of the employer.

This provision was not in the JCT's most recent estimates.

Employer Credit for Paid Family and Medical Leave

The employer credit for paid family and medical leave was originally scheduled to expire after 2019. The credit was extended through 2020 in the Further Consolidated Appropriations Act, 2020 (P.L. 116-94), and through 2025 in the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (Division EE of P.L. 116-260).

The TCJA provides a tax credit for employers paying wages to employees on family and medical leave. If the employer is paying 50% of wages normally paid to an employee not on leave, the credit is 12.5% of wages paid. The credit is increased by 0.25 percentage points (up to 25%) for each percentage point the ratio of leave wages to wages normally paid exceeds 50%. Employers may claim the credit for up to 12 weeks of paid leave per employee. Leave required by state or local law is not taken into account for purposes of the credit. Eligible employers are those that allow all full-time employees at least two weeks of paid family and medical leave (with leave time prorated for part-time employees) and provide family and medical leave separate from vacation or personal leave. A qualifying employee is one who has been employed by the employer for at least one year, and who, during the preceding year, had compensation not in excess of 60% of the compensation threshold for highly compensated employees ($120,000 for 2017 and 2018, effectively limiting the credit to employees who were paid no more than $72,000).

The JCT estimated that extending this provision through 2034 would cost $4.6 billion.

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[56] Penn-Wharton Budget Model, *The Budgetary and Economic Effects of Permanently Extending the 2017 Tax Cuts and Jobs Acts' Expiring Provisions*.

[57] Ernst and Young, *Economic Impacts of a Stricter 163(j) Interest Expense Limitation*, Prepared on behalf of the National Association of Manufacturers (NAM), October 2023.

This provision would benefit workers without access to paid family leave to the extent the credit increases the number of firms offering the leave. Lower-income workers are less likely to have access to this type of leave. In 2022, 25% of workers had access, covering 38% of workers in the top quarter of wage earners but 13% in the bottom quarter. Access to this leave has been growing over time.[58]

To date, there has been limited research on the credit. In 2023, the Department of the Treasury's Office of Tax Analysis (OTA) examined claims for the credit in 2020. OTA found that a total of 1,230 businesses claimed the credit nationwide. Those businesses claimed a total of $101 million, with 88% of the benefit going to businesses with revenue over $1 billion.[59]

Qualified Opportunity Zones (Expires in 2026)

The TCJA allowed a temporary deferral of capital gains taxation if gains are reinvested in a qualified opportunity fund and the permanent exclusion of capital gains from investments in a qualified opportunity fund. The designation of census tracts as opportunity zones is made by a state's governor with the number of tracts capped by statute. This provision is scheduled to expire in 2026.

The JCT estimated that extending this provision through 2034 would cost $70 billion.

A review of the empirical research on opportunity zones indicates mixed results on the effectiveness.[60] Early evidence found little or no effect of this provision and that the investment was geographically concentrated.[61] An overview of research and data indicated that investment was geographically concentrated into a small share of zones, was likely to go to higher-income and urban zones, and was more likely to be invested in real estate than in operating businesses.[62] JCT data indicated that 62.7% of the investment was in real estate and 8.5% in rural areas.[63]

International Provisions

The TCJA altered the international tax regime by eliminating the tax on dividends received from foreign subsidiaries and enacting a global minimum tax on certain income, known as GILTI (global intangible low-taxed income). It also enacted a tax reduction for intangible income received by U.S. corporations from foreign sources, FDII (foreign-derived intangible income). GILTI and FDII are related provisions and their economic effects depend on each other. The JCT estimated that extending these provisions through 2034 would cost $120 billion through FY3034.

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[58] CRS In Focus IF11141, *Employer Tax Credit for Paid Family and Medical Leave*, by Anthony A. Cilluffo.

[59] U.S. Department of the Treasury Office of Tax Analysis, *Section 45S, Employer Credit for Paid Family and Medical Leave Claims, Counts and Dollars*, October 18, 2023, https://home.treasury.gov/system/files/131/Section-45S-Claims-Tables-10172023.pdf.

[60] Economic Innovation Group, *Are Opportunity Zones Working? What the Literature Tells Us*, October 12, 2023, https://eig.org/opportunity-zones-research-brief/.

[61] CRS Report R45152, *Tax Incentives for Opportunity Zones*, by Donald J. Marples.

[62] Brett Theodos et al., *What We Do and Don't Know about Opportunity Zones*, Urban Institute, March 21, 2023, https://www.urban.org/urban-wire/what-we-do-and-dont-know-about-opportunity-zones.

[63] JCT, *Tax Incentives for Economic Development and Financing*, JCX-36-24, July 26, 2024, https://www.jct.gov/publications/2024/jcx-36-24/.

Lower Tax Rate on Global Intangible Low-Taxed Income (GILTI)

As part of the transition to a system with the exclusion of dividends from U.S.-controlled foreign corporations, the TCJA imposed a minimum tax on the income of these foreign corporations. Corporations include in income their foreign-source income in excess of 10% of their tangible assets net of interest (focusing on intangible income by excluding a deemed normal return to tangible investments). This income is termed global intangible low-taxed income. A deduction is allowed for 50% of this income for tax years beginning after December 31, 2017, and before January 1, 2026, with a subsequent deduction of 37.5% thereafter. At a 21% corporate tax rate, these deductions result in tax rates of 10.5% and 13.125%, respectively. Foreign taxes are allowed to be creditable—80% can be credited. As a result, the lowest foreign tax rate at which no U.S. tax is due is 13.125% initially (80% of 13.125% is 10.5%) and then 16.406%. Because the credit is applied on a global basis, this minimum rate would be on global income. The sum of GILTI and FDII (see below) cannot exceed taxable income considered without regard to GILTI and FDII.

Lower Deduction for Foreign-Derived Intangible Income (FDII)

The TCJA allowed a deduction for foreign-derived intangible income arising from a trade or business within the United States. The deduction is 37.5% for tax years beginning after December 31, 2017, and before January 1, 2026, with the deduction subsequently reverting to 21.875%. These deductions result in effective rates of 13.125% and 16.406%, respectively. Foreign-derived intangible income is determined by multiplying intangible income of the firm (income minus certain excepted income minus deductions minus 10% of tangible assets) by the share of deductible income from sales of property or services to foreigners to be used abroad to the total deductible income of the firm. Deductible income is gross income minus deductions minus certain exceptions. The exceptions include Subpart F income, GILTI, financial services income, dividends from CFCs, and domestic oil and gas income.

Discussion

GILTI and FDII are related provisions, and together they are still likely to encourage the location of intangible assets abroad, but to a lesser degree than the pre-TCJA international regime. The exemption for tangible assets encourages the location of tangible assets abroad, but this aspect would not be affected by the rate change. A survey of the empirical literature on the effects of the international regime as a whole indicated a reduction in acquisitions of foreign firms, increased investment in foreign tangible assets, no change in profit shifting beyond the effects of lowering the corporate tax rate, a reduction in the market value of U.S. multinationals compared to domestic firms, and no detectable effect on U.S. investment and wages.[64] Other analyses have indicated a shift of intellectual property into the United States, especially by large tech firms, although that shift could also be affected by other factors (the lower U.S. tax rate, increased taxation of foreign-source income, and changes in foreign tax laws, particularly in Ireland). His analyses have showed an increase in the share of worldwide profits in the United States.[65]

[64] Dhammika Dharmapala, *The Consequences of the 2017 US International Tax Reform: A Survey of the Evidence*, CESifo Working Paper no. 10802, November 2023, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4659051#.

[65] Martin Sullivan, "IP Transfers and Profit Shifting," *Tax Notes International*, November 27, 2023, pp. 1229-1234; "Reported FDII Benefits Surge for Big Tech," *Tax Notes International*, December 6, 2021, pp. 1077-1080; and "What Will It Take to Get Big Pharma Profits Into the United States?," *Tax Notes International*, March 11, 2024, pp. 1445-1449.

The method of calculating GILTI and FDII may also affect incentives for where multinational corporations locate fixed investments (such as a new facility). Recall that the GILTI tax is levied on a business's foreign-source income in excess of 10% of the business's tangible assets. Therefore, a business subject to the GILTI tax would realize tax savings by increasing foreign tangible assets. Also recall that the FDII deduction allows a deduction for the amount by which sales to foreigners exceed 10% of domestic tangible assets. Therefore, a business would maximize its FDII deduction (holding foreign sales constant) by minimizing domestic tangible assets. Therefore, for businesses affected by GILTI and FDII, these provisions may provide incentives that encourage foreign investment and discourage domestic investment.[66]

Increases in the rates would bring tax rates more in line with the global minimum tax currently adopted by most other countries and reduce the amount of tax collected by other countries on both U.S.-source and foreign-source income under the undertaxed profits provisions that permit countries to tax affiliates in their countries to bring the tax rate up to the minimum 15% rate, scheduled to go into effect in 2025.

Increase Rates for the Base Erosion and Anti-Abuse Tax (BEAT)

The Base Erosion and Anti-Abuse Tax (BEAT) enacted in the TCJA imposes a minimum tax equal to 10% of the sum of taxable income and base erosion payments on corporations with average annual gross receipts of at least $500 million over the past three tax years and with deductions attributable to outbound payments exceeding a specified percentage of the taxpayer's overall deductions. The rate is 5% for payments in 2018, and 12.5% for taxable years beginning after December 31, 2025. (Taxpayers that are members of an affiliated group that includes a bank or registered securities dealer are subject to an additional increase of 1 percentage point in the tax rates.) Base erosion payments include payments to related foreign parties for which a deduction is allowable under IRC Chapter 1, the purchase of depreciable or amortizable property, certain reinsurance payments, and payments to inverted firms or foreign persons who are a member of an affiliated firm that includes the inverted firm that became inverted after November 9, 2017 (but not firms that continue to be treated as U.S. firms). Cost of goods sold would not be included, and cost of services would not be included if determined under the services cost method under the transfer pricing rules in Section 482. Disallowed interest under Section 163(j) would be first allocated to unrelated parties. A related person is a person who owns at least 25% of the taxpayer or parties controlled by the same interests. All firms under common ownership are aggregated with common ownership if one firm (such as a parent) has more than 50% ownership. The research credit and 80% of three credits (including the low-income housing credit and certain energy credits) are allowed to reduce the BEAT tax by comparing it to the regular tax without reducing it by these credits. After 2025, the regular tax will be reduced by all credits.

The JCT estimated that extending this provision through 2034 would gain $21 billion.

BEAT liability turned out to be considerably less than originally estimated, totaling $1.9 billion in 2020, compared projections of revenue of $13.3 billion in the 2017 score.[67] This difference may have been due to regulatory interpretations that favored the taxpayer.[68]

[66] This discussion partially follows Kimberly A. Clausing, "U.S. International Corporate Taxation after the Tax Cuts and Jobs Act," *Journal of Economic Perspectives*, vol. 38, no. 3 (Summer 2024): p. 96.

[67] JCT, *Estimated Budget Effects of The Conference Agreement for H.R.1, The Tax Cuts and Jobs Act*.

[68] Revenues for 2020 are reported in JCT, *Background And Analysis Of The Taxation Of Income Earned By Multinational Enterprises*, JCX-35R-23, July 17, 2023, https://www.jct.gov/publications/2023/jcx-35r-23/.

BEAT was aimed at profit shifting by increasing the cost of payments made to foreign affiliates, both U.S. parents of foreign subsidiaries and foreign-owned U.S. subsidiaries. This is the only provision that can address profit shifting out of the United States by foreign multinationals. In 2018, the only year in which IRS data are available, the firms that paid the most BEAT were in manufacturing (50%); finance and insurance (17%); professional, scientific, and technical services (10%); and information (7%).

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