

Key Wealth Institute

What Happens If the TCJA Expires? Why It Matters Now for Your Taxes and Your Legacy

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Several taxpayer-friendly provisions of the Tax Cuts and Jobs Act ("TCJA"), signed into law by President Trump in 2017, are set to expire or sunset after December 31, 2025, unless Congress acts before then. As a result, the temporary provisions of the TCJA will revert to their pre-2018 levels subject to an inflation adjustment.

Many questions remain as to whether a portion, all, or none of the TCJA will be extended. The difference could be significant if you are a high earner, a business owner, or a family with a growing estate. Being aware of which TCJA provisions will sunset and which are permanent is essential to financial planning in this era of uncertainty.

The TCJA is arguably one of the most significant changes to the Internal Revenue Code since the Tax Reform Act of 1986. The TCJA reduced individual income tax rates and expanded tax brackets. The act also increased the standard deduction, capped the state and local income tax deduction, eliminated personal and dependent

exemptions, raised the child tax credit, and elevated the alternative minimum tax ("AMT") threshold and phaseout for individuals.

Let us review some of the individual taxpayer provisions that could sunset.

Individual income tax rates and brackets

The change to the individual income tax rates and brackets is one of the most frequently discussed impacts of the TCJA. The TCJA reduced the top income tax rate from 39.6% to 37%. It also reduced five of the seven income tax rates, leading to an increase and expansion of the threshold for taxable income. These changes allow for income to be taxed at lower rates and fall into lower tax brackets, resulting in tax savings for many individual taxpayers.

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The following is an example of how the TCJA changed the landscape for individual income tax. The example demonstrates the changes to the tax rates and brackets for single filers from 2017 to 2018.

2017 Single Filer Taxable Tax Rate & Bracket		2018 TCJA Single Filer Taxable Tax Rate & Bracket	
Tax Rate	Tax Bracket	Tax Rate	Tax Bracket
10.0%	\$0 – \$9,325	10.0%	\$0 – \$9,525
15.0%	\$9,326 – \$37,950	12.0%	\$9,526 – \$38,700
25.0%	\$37,951 – \$91,900	22.0%	\$38,701 – \$82,500
28.0%	\$91,901 – \$191,650	24.0%	\$82,501 – \$157,500
33.0%	\$191,651 – \$416,700	32.0%	\$157,501 – \$200,000
35.0%	\$416,701 – \$418,400	35.0%	\$200,001 – \$500,000
39.6%	\$418,401+	37.0%	\$500,001+

Source: Bradford Tax Institute (https://bradfordtaxinstitute.com/Free_Resources/2017-Federal-Tax-Brackets.aspx)

The lower tax rates and increased income thresholds are set to expire at the end of 2025. Both tax rates and tax brackets will revert to the 2017 tax rates with the tax brackets being adjusted for inflation. The reversion to the 2017 levels could push many individuals into higher tax brackets at a lower income threshold. This will likely result in increased tax liability for some taxpayers as well as more complex and time-consuming tax preparation.

Standard deduction versus itemized deduction

Simplification of the tax-filing process was touted as one of the benefits of the TCJA. The TCJA nearly doubled the standard deduction for both single and joint filers. Previously, 68.9% of all filers used the standard deduction rather than itemizing. After the enactment of the TCJA, 87.3% of all filers used the standard deduction. [Publication 1304 \(Rev. 9-2020\)](#).

If the standard deduction reverts to its pre-2018 levels, the likely result will be a shift back to more taxpayers itemizing deductions. This may lead to more complex and time-consuming tax preparation and more burdensome recordkeeping for the taxpayer.

State and local tax deductions and personal exemptions

The TCJA also limited and eliminated other deductions. State and local income tax deductions were limited to \$10,000 for single and joint filers. This change particularly affects taxpayers who are residents of states with higher income tax rates, localities with high property tax rates, and high-income households that typically itemize their deductions. Some believe that joint filers were penalized by being subject to the same \$10,000 cap as single filers. If the TCJA provisions sunset, state and local income tax deductions will revert to being unlimited.

Before the TCJA, taxpayers could claim personal and dependent exemptions for themselves, their spouses, and dependents at \$4,050 per individual to reduce their taxable income. As a way to simplify the filing process, the TCJA eliminated the personal and dependent exemptions and replaced them with the increased standard deduction. The exemptions will revert to the pre-2018 amount, adjusted for inflation, if the provisions sunset.

Child tax credit

The TCJA increased the child tax credit for parents and caregivers. Pre-TCJA, the child tax credit was \$1,000 per child under the age of 17. The TCJA raised the credit to \$2,000 per child under the age of 17. Even if a taxpayer

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does not owe income tax, the TCJA allows for a refund of up to \$1,400 for the child tax credit. The credit is an attractive benefit for taxpayers with children because it is a dollar-for-dollar reduction of the taxpayer's tax liability.

The TCJA also raised the phaseout threshold of the credit. The credit is reduced by 5% of any adjusted gross income over \$400,000 for joint filers under the TCJA. Previously, the credit was reduced by 5% for any adjusted gross income over \$110,000. The TCJA also created a new \$500 tax credit for adult household members who are supported by the taxpayer and for college students. If the TCJA expires, the child tax credit will revert to \$1,000 per child under 17 with no refundable amount. The \$500 tax credit for dependents who are not ordinarily eligible for the child tax credit will also be sunsetting, as well as a reversion to the lower phaseout threshold.

Alternative minimum tax

The TCJA also resulted in changes to the alternative minimum tax. The AMT is a separate calculation in addition to the traditional income tax calculation. It was enacted in 1969 to prevent higher-income earners from using loopholes to lower their income tax liability. The tax recalculates income tax while eliminating certain deductions and credits. Taxpayers then compare their regular income tax calculation to the AMT calculation and pay the higher amount.

The TCJA raises the exemption amounts and the phaseout threshold, subjecting fewer taxpayers to AMT and likely reducing the time spent preparing tax returns due to the complexity of the calculations. The increase in exemption and phaseout threshold to the AMT is set to sunset on December 31, 2025.

To explore how the expiration of the TCJA would affect taxpayers, let us look at an example.

Case study: A married couple reside in Texas with two children under age 17, and earn a combined employment income of \$365,000. They made \$22,000 in 401(K) contributions and generated \$40,000 in long-term capital gains in 2026. The couple typically uses the standard deduction and files a joint return.

2026	With TCJA Permanent or Extended	With TCJA Sunset*	Difference
Total Income	\$405,000	\$405,000	\$0
Adjusted Gross Income	\$383,000	\$383,000	\$0
Standard Deduction	– \$30,900	– \$17,100	– \$13,800
Personal Exemption	\$0	–\$22,000	\$ 22,000
Taxable Income	\$352,100	\$343,900	\$8,200
Alternative Minimum Tax	\$0	\$4,086	–\$4,086
Income Tax Before Credits	\$66,142	\$73,305	–\$7,163
Net Investment Income Tax	\$1,520	\$1,520	\$0
Medicare Surtax	\$1,197	\$1,197	\$0
Child Tax Credit	–\$4,000	\$0	–\$4,000
Total Tax	\$64,859	\$76,022	–\$11,163

* Calculations include inflation assumptions and are an estimation for demonstrative purposes.

The sunset of the TCJA would result in an estimated \$11,163 tax increase for this couple because they would hit a higher tax rate at a lower income tax threshold, would be subject to the alternative minimum tax, and would lose their child tax credit.



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The qualified business income deduction (IRC section 199A)

The elimination of the IRC Section 199A deduction could have a big impact for closely held business owners. Section 199A permits the owners of sole proprietorships, S corporations, or partnerships (known as pass-through entities) to deduct up to 20% of the income earned by the business. The deduction generally allows these business owners to keep pace with the significant corporate income tax rate cut provided by the TCJA. With the Section 199A deduction, the top pass-through rate for years 2018–25 was 29.6%. If the provision expires, the top rate increases to 39.6%, resulting in a tax increase on the net business income.

Federal estate tax exemption

The TCJA increased the federal estate tax exemption amount from \$5,490,000 per individual in 2017 to \$11,180,000 per individual in 2018. An individual who passes away with a gross estate at or above the exemption amount in the year of death is required to file a federal estate tax return and is subject to a 40% estate tax rate on assets over the filing threshold. The exemption shields that portion of assets in the gross estate from being subject to federal estate tax. The higher the exemption, the fewer people who are subject to federal estate tax. The current federal estate tax exemption amount for 2025 is \$13,990,000 per individual.

If the TCJA sunsets, the federal exemption amount is set to revert to its pre-2018 amount of \$5 million per individual with an inflation adjustment that is anticipated to be between \$7 million and \$7,400,000, based on current inflation projections. That is half of the amount of the exemption if the TCJA is extended. This would result in more individuals being required to file a federal estate tax return and increasing their estate tax liability, if the provision expires.

Being aware of which TCJA provisions will sunset and which are permanent is essential to financial planning in this era of uncertainty.

Permanent changes — inflation indexing and Affordable Care Act penalty

Several of the TCJA's provisions are permanent. The TCJA permanently changed the calculation of inflation indexing from the traditional Consumer Price Index ("CPI") for All Urban Consumers to the Chained Consumer Price Index. The CPI for All Urban Consumers measures inflation based on the average price changes of certain fixed consumer items and services weighted by how much households spend. It does not capture changes in consumer spending habits. Critics argued that this calculation resulted in an overstating of inflation.

The Chained CPI follows consumer spending and the increase of the price of products. It also considers when consumers' purchasing habits change. Purchasing habits change when a consumer substitutes one product priced at a higher cost for a similar product of lower cost. The Chained CPI generally results in a slower-growing and lower measure of inflation.

The TCJA also permanently eliminated the penalty for not having health insurance under the Affordable Care Act. The penalty, in effect before the TCJA, stipulated that households without qualifying health insurance were subject to a penalty of the lesser of 2.5% of the household income or \$347.50 per child and \$695 per adult. The maximum penalty was \$2,085. The TCJA permanently eliminated the penalty so individuals are no longer penalized for not enrolling in health insurance during the taxable year.

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Planning in a potential sunseting environment

Gifting assets that generate substantial income to an individual in a lower tax bracket is a strategy worth exploring. This would allow the donor of the gift to remove the asset from his or her taxable estate for estate tax purposes. It would allow the individual to take advantage of the current elevated federal estate tax exemption of \$13,990,000 per individual before it potentially sunsets to a much lower amount. This strategy also allows the donor to remove income from his or her balance sheet, which might be particularly helpful if the TCJA sunsets, since many individuals will be in a higher tax bracket with lower income subject to a higher tax rate.

Another tactic worth exploring is the timing of income and deductions. If the TCJA sunsets, the standard deduction amount will substantially decrease for both single and joint filers. These changes could potentially lead to more taxpayers itemizing their deductions to lower their income taxes in a higher-tax-rate environment.

It is worth considering deferral of potential deductions to future tax years if the standard deduction decreases as a result of the sunset of the TCJA or if the taxpayer believes that he or she might enter a higher tax bracket in the near future. If a taxpayer has any income that he or she can move into the 2025 tax year as opposed to later years, it might be worthwhile to explore. Such transactions might include the sale of any appreciated property or any income subject to the ordinary income tax rates.

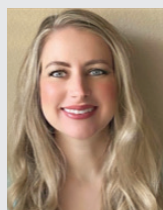
Considering a Roth individual retirement account ("IRA") conversion might also be appropriate. This potentially could be an ideal time to convert all or a portion of a traditional IRA to a Roth IRA while the tax rates are lower, and the tax brackets are more expansive. If tax rates increase and tax brackets lower due to the sunset of the TCJA, the taxpayer can then be more selective as to when he or she withdraws retirement funds. The taxpayer can choose to withdraw funds from the Roth IRA in a year where the taxpayer finds himself or herself in a higher tax bracket and choose to withdraw from a traditional IRA when the taxpayer finds himself or herself in a lower tax bracket.

For more information, [please contact your advisor.](#)

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About the Author

Kelly serves as the Director of Tax, Trust, and Estate Planning where she provides guidance to individuals, families, and business owners on strategies to minimize estate tax, gift tax, and generation-skipping transfer (GST) tax exposure while helping clients develop comprehensive estate plans aligned with personal, financial, and philanthropic goals tailored to each client's unique situation. Drawing on her legal and tax background, Kelly specializes in advanced planning strategies that support legacy goals through intra-family wealth transfers, valuation discount strategies, charitable planning, and business succession. She maintains a deep and current understanding of evolving tax laws and regulations to ensure clients receive the most up-to-date planning recommendations.

Prior to joining Key, Kelly spent 13 years working in the estate tax department at Bank of America Private Bank where she focused on the preparation and review of federal estate tax returns, as well as state-level estate and inheritance tax returns. She advised clients on valuation issues, portability election, generation-skipping transfer (GST) tax and post-mortem planning strategies and coordinated audit responses before the Internal Revenue Service. She earned her LL.M. in Taxation from Villanova University, her J.D. from Cooley Law School, and her BA in English from John Carroll University. Kelly is a member of the State Bar of Texas.



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