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Provisions that sunset under the ("TCJA")

The Tax Cuts and Jobs Act (TCJA, or Act) makes substantial changes to the Internal Revenue Code. In order to comply with certain budgetary constraints, the TCJA contains a "sunset," or an expiration date, for many of its provisions—e.g. they apply for tax years beginning before Jan. 1, 2026. Accordingly, many of the TCJA provisions are temporary. This letter provides an overview of the Act's sunsetting provisions.

- Unless otherwise noted, the provisions discussed below are effective for tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026. For calendar-year taxpayers (nearly all individuals), this means that the provisions are effective for 2018-2025.
- New income tax rates & brackets. Seven tax rates apply for individuals: 10%, 12%, 22%, 24%, 32%, 35%, and 37%. The Act also provides four tax rates for estates and trusts: 10%, 24%, 35%, and 37%.
- Standard deduction increased. The standard deduction is increased to $24,000 for married individuals filing a joint return, $18,000 for head-of-household filers, and $12,000 for all other taxpayers, adjusted for inflation in the 2019-2025 tax years. No changes are made to the current-law additional standard deduction for the elderly and blind.
- Personal exemption set to $0. The deduction for personal exemptions is effectively eliminated for 2018-2025 by reducing the exemption amount to zero.
- New limitation on "excess business loss." The Act provides that excess business losses aren't allowed for the tax year but are instead carried forward and treated as part of the taxpayer's net operating loss (NOL) carryforward in subsequent tax years. A taxpayer has an excess business loss if the taxpayer's losses from all trades or businesses exceeds income from the trades or businesses by more than $250,000 ($500,000 for taxpayers who file joint returns). The $250,000/$500,000 amount is adjusted for inflation in years after 2018.
- Deduction for personal casualty & theft losses not allowed. The personal casualty and theft loss deduction isn't allowed, except for personal casualty losses incurred in a federally declared disaster. However, where a taxpayer has personal casualty gains, personal casualty losses can still be offset against those gains, even if the losses aren't incurred in a federally declared disaster.
- Gambling loss limitation modified. The limitation on wagering losses is modified to provide that all deductions for expenses incurred in carrying out wagering transactions, and not just gambling losses, are limited to the extent of gambling winnings.
- Child tax credit increased. The child tax credit is increased to $2,000, and other changes are made to phase-outs and refundability during this same period. In addition, taxpayers are allowed a $500 credit for each dependent who isn't a qualifying child.
- State and local tax deduction limited. Subject to the exception described below, state, local, and foreign property taxes, and state and local sales taxes, are deductible only when paid or accrued in carrying on a trade or business or income-producing activity. State and local income, war profits, and excess profits aren't allowable as a deduction. However, a taxpayer may claim an itemized deduction of up to $10,000 ($5,000 for a married taxpayer filing a separate return) for the aggregate of (i) state and local property taxes not paid or accrued in carrying on a trade or business or income-producing activity; and (ii) state and local income, war profits, and excess profits taxes (or sales taxes in lieu of income, etc. taxes) paid or accrued in the tax year. Foreign real property taxes may not be deducted.
- Mortgage & home equity indebtedness interest deduction limited. The deduction for interest on home equity indebtedness is eliminated for 2018-2025, and the deduction for interest on "acquisition indebtedness" is limited to underlying indebtedness of up to $750,000 ($375,000 for married taxpayers filing separately). Acquisition indebtedness is generally debt a taxpayer incurred in acquiring, constructing or substantially improving the taxpayer's home or second residence. Congress ulti-

mately didn't adopt a proposal to eliminate the mortgage interest deduction for mortgages on a taxpayer's second residence.

- There is a grandfather clause for acquisition indebtedness taken out before Dec. 16, 2017, and the higher limits continue to apply to that debt. The grandfather clause also applies when a buyer has a written binding contract before Dec. 15, 2017, to close on the purchase of a principal residence (but not a second home) before Jan. 1, 2018, and ultimately closes before Apr. 1, 2018. The grandfather clause doesn't apply to home equity indebtedness.
- For tax years beginning after Dec. 31, 2025, the prior $1 million/$500,000 limitations are restored, and a taxpayer may treat up to these amounts as acquisition indebtedness regardless of when the indebtedness was incurred. The prohibition on deducting home equity indebtedness interest also ends for tax years beginning after Dec. 31, 2025.
- Medical expense deduction threshold temporarily reduced. For tax years beginning after Dec. 31, 2016 and ending before Jan. 1, 2019, the threshold on medical expense deductions is reduced to 7.5% of adjusted gross income (AGI) for all taxpayers (from 10%).
- Charitable contribution deduction limitation increased. The 50% limitation under Code Sec. 170(b) for cash contributions to public charities and certain private foundations is increased to 60%. Contributions exceeding the 60% limitation are generally allowed to be carried forward and deducted for up to five years, subject to the later year's ceiling.
- Miscellaneous itemized deductions not allowed. The deduction for miscellaneous itemized deductions (which had previously been subject to the 2%-of-AGI "haircut") isn't allowed.
- Overall limitation ("Pease" Limitation) on itemized deductions not applicable. The "Pease limitation" on itemized deductions doesn't apply.
- Qualified bicycle commuting exclusion not applicable. The exclusion from gross income and wages for qualified bicycle commuting reimbursements doesn't apply.
- Exclusion for moving expense reimbursements not applicable. The exclusion for qualified moving expense reimbursements doesn't apply, except for members of the Armed Forces on active duty (and their spouses and dependents) who move pursuant to a military order and incident to a permanent change of station.
- Moving expenses deduction not applicable. The deduction for moving expenses doesn't apply, except for members of the Armed Forces on active duty who move pursuant to a military order and incident to a permanent change of station.
- AMT retained, with higher exemption amounts. The Act increases the alternative minimum tax (AMT) exemption amounts for individuals as follows:

  For joint returns and surviving spouses, $109,400.
  For single taxpayers, $70,300.
  For married couples filing separately, $54,700.

- Under the Act, the above exemption amounts are reduced (not below zero) to an amount equal to 25% of the amount by which the alternative taxable income of the taxpayer exceeds the phase-out amounts, increased as follows:

  For joint returns and surviving spouses, $1 million.
  For all other taxpayers (other than estates and trusts), $500,000.
  These amounts will be adjusted for inflation for the 2019-2025 tax years.
  For trusts and estates, the base figure of $22,500 and phase-out amount of $75,000 remain unchanged.

- ABLE account changes. Effective for tax years beginning after Dec. 22, 2017 (the enactment date of the TCJA) and before Jan. 1, 2026, the contribution limitation to ABLE accounts with respect to contributions made by the designated beneficiary is increased, and other changes are in effect. After the overall limitation on contributions is reached (i.e., the annual gift tax exemption amount; for 2018, $15,000), an ABLE account's designated beneficiary can contribute an additional amount, up to the lesser of (a) the federal poverty line for a one-person household; or (b) the individual's compensation for the tax year.
- Student loan discharged on death or disability. Certain student loans that are discharged on account of death or total and permanent disability of the obligor are excluded from gross income.
- Estate and gift tax retained, with increased exemption amount. For estates of decedents dying and gifts made after Dec. 31, 2017 and before Jan. 1, 2026, the Act doubles the base estate and gift tax exemption amount from $5 million to $10 million.
- Temporary 100% cost recovery of qualifying business assets. A 100% first-year deduction for the adjusted basis is allowed for qualified property acquired and placed in service after Sept. 27, 2017, and before Jan. 1, 2023 (after Sept. 27, 2017, and before Jan. 1, 2024, for certain property with longer production periods). The additional first-year depreciation deduction is allowed for new and used property.
- New credit for employer-paid family and medical leave. For wages paid in tax years beginning after Dec. 31, 2017, but not beginning after Dec. 31, 2019, the Act allows businesses to claim a general business credit equal to 12.5% of the amount of wages paid to qualifying employees during any period in which such employees are on family and medical leave (FMLA) if the rate of

payment is 50% of the wages normally paid to an employee. The credit is increased by 0.25 percentage points (but not above 25%) for each percentage point by which the rate of payment exceeds 50%. All qualifying full-time employees have to be given at least two weeks of annual paid family and medical leave (all less-than-full-time qualifying employees have to be given a commensurate amount of leave on a pro rata basis).

- New deduction for pass-through income. Generally for tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the Act adds a new section, Code Sec. 199A, “Qualified Business Income,” under which a non-corporate taxpayer, including a trust or estate, who has qualified business income (QBI) from a partnership, S corporation, or sole proprietorship is generally allowed a deduction equal to the lesser of 20% of QBI (not including net capital gains) or 50% of W-2 wages paid by the partnership, S corporation, or sole proprietorship. But the deduction can't exceed the taxpayer's taxable income, reduced by net capital gain.
- Deduction for foreign-derived intangible income and GILTI. In the case of a domestic corporation, a deduction is allowed in an amount equal to the sum of: (i) 37.5% of the foreign-derived intangible income (FDII) of the domestic corporation for the tax year, plus (ii) 50% of the global intangible low-taxed income (GILTI) amount (if any) which is included in the gross income of the domestic corporation under Code Sec. 951A for the tax year. For tax years beginning after Dec. 31, 2025, those amounts are reduced to 21.875% and 37.5%, respectively. FDII of a domestic corporation is the amount which bears the same ratio to the corporation's deemed intangible income as its foreign-derived deduction eligible income bears to its deduction eligible income. The deduction is intended to partially offset the provision in the TCJA including FDII and GILTI in income.
- Election with respect to foreign tax credit limitation. Under pre-TCJA law, for purposes of the limitation on the foreign tax credit, if a taxpayer sustains an overall domestic loss for any tax year, then, for each succeeding year, an amount of U.S. source taxable income, equal to the lesser of either the full amount of the loss to the extent not carried back to prior tax years or 50% of the taxpayer's U.S. source taxable income for that succeeding tax year, is recharacterized as foreign source income. For any tax year of a taxpayer that begins after Dec. 31, 2017 and before Jan. 1, 2028, the taxpayer may, with respect to pre-2018 unused overall domestic losses, elect to substitute, for 50% of the taxpayer's U.S. source taxable income for that succeeding tax year, a percentage greater than 50% but not greater than 100%.

To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used , and cannot be used , for the purpose of avoiding penalties under the Internal Revenue Code.