Protective

# **FAQ:** Sunset of the Tax Cuts and Jobs Act

## What is the "sunset" of the Tax Cuts and Jobs Act?

The Tax Cuts and Jobs Act (TCJA), enacted in December 2017, was the largest revision to the federal tax code in several decades, impacting income taxes, corporate taxes, gift taxes, and estate taxes. To comply with legislative rules on budgeting, a "sunset" provision was added that will cause most provisions to expire on December 31, 2025. Congress may choose to extend the affected provisions or make them permanent. However, if Congress lets the changes expire as scheduled, taxpayers will face significant estate and financial planning risks that should not be ignored.

## Will the sunset affect my individual income taxes?

Yes, it will impact individual income taxes in several ways:

- **The return of higher tax rates.** The TCJA kept the same number of tax brackets, but lowered rates and expanded the brackets. The sunset of the TCJA provisions will bring the return of higher tax rates. For example, the top income tax bracket would go from the current 37% back up to the previous 39.6%—a measurable increase.
- **The return of a lower standard deduction.** The TCJA essentially doubled each level of the standard deduction, bringing them up to:
  - $14,600 for individuals in 2024 (up from $6,350 in 2017)
  - $21,900 for head of households in 2024 (up from $9,350 in 2017)
  - $29,200 for married couples filing jointly in 2024 (up from $12,700 in 2017)

  The sunset will return the standard deduction to the lower 2017 amounts, but with adjustments for inflation.
- **The return of the personal exemption.** Prior to the TCJA, taxpayers were allowed to claim $4,050 as a personal exemption for the taxpayer, the taxpayer's spouse, and each of the taxpayer's dependents. The TCJA eliminated the personal exemption, but the sunset will bring it back (adjusted for inflation).
- **The return of fully deductible state and local taxes (SALT).** The TCJA capped the deduction from federal income taxes of state and local taxes paid at $10,000. The sunset

would remove the cap, again allowing taxpayers to fully deduct state and local taxes on their federal income tax return.

- **The return of the Pease limitation.** Prior to the TCJA, the Pease limitation reduced the total amount of deductions by 3% of the amount by which a high-income taxpayer's income exceeded the thresholds set by the IRC (capped at 80% of the total value of the taxpayer's deductions). The TCJA repealed the Pease limitation, but the sunset will bring this limitation back beginning when a taxpayer's income exceeds $261,500 for single filers or $313,800 for married couples (but adjusted for inflation).

## I am a business owner. Will the sunset also impact my business income taxes?

The TCJA reduced the corporate income tax rate permanently to 21% to be more in line with the corporate tax rates imposed by other nations. A business taxed as a C corporation will not be subject to any income tax rate changes. However, if you own a pass-through business (like an LLC, partnership, or S corporation), your income taxes may be affected if you were taking the Qualified Business Income tax deduction. The TCJA created this deduction for owners of certain pass-through entities of 20% of the owner's share of qualified business income on their individual tax return, whether they itemize or not. The sunset will eliminate this deduction.

## Will the sunset impact the charitable deduction?

The TCJA's primary impact on charitable giving was the higher standard deduction, which meant that many taxpayers who previously itemized and took the charitable deduction for their donations now find that it makes more sense to take the standard deduction, even at the loss of the charitable deduction. If the standard deduction reverts to its previous level, more taxpayers will start itemizing again, meaning more people will actually claim the charitable deduction available for their gifts.

The TCJA also increased the 50% limitation on charitable gifts of cash to public charities and certain private foundations to 60%. This is scheduled to revert to 50% if Congress takes no action.

## How will the sunset affect my estate?

Perhaps the TCJA's biggest impact for individual taxpayers was the doubling of the federal estate and gift tax exemption amount, from $5 million to $10 million ($13.61 million in 2024 after annual inflation adjustments). This means very few estates have been subject to the estate tax under the TCJA. If Congress allows this change to expire, the new estate tax exemption amount for 2026 will drop down into the $6-7 million range, likely resulting in many more estates owing federal estate taxes.

## Is there anything I can do now to minimize the impact of these future changes?

Now is the time to work with financial professionals and legal counsel to carefully review financial and estate plans and explore strategies designed to protect assets and minimize taxes. This is especially true for those who may be affected by the significant change in the estate and gift tax exemption. If you have an estate that may be affected, there are estate and financial planning tools that may help minimize the impact, such as:

- **Bypass trust.** Some married couples with estates that are likely to be impacted by the lower estate tax exclusion may consider using a bypass trust to shelter additional assets from the estate tax at the death of the second spouse.
- **Irrevocable life insurance trust (ILIT).** This is another strategy available to people who might be impacted by a reduction in the estate tax exemption amount. The trust can help meet estate liquidity needs, avoid estate tax on the life insurance proceeds, provide protection from creditors at death, and provide for the income needs of survivors (after liquidity costs have been paid).
- **Annual gifts.** Taxpayers can explore the idea of estate reduction by making annual gifts to family members while the gift tax exclusion amount remains high. Married couples can make use of gift-splitting, where both spouses join together in a present-interest gift even if the property comes entirely from one spouse.
- **Charitable gifts.** This is another way to reduce the size of the estate to minimize or avoid any potential estate tax. Most charitable gifts come with additional benefits as well, from an immediate income tax deduction to the creation of a lifetime income stream.

Discuss your situation with your estate and financial professionals, who can help you determine the potential impact of these changes and recommend appropriate action steps to consider.

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