TAX FOUNDATION

A Look Ahead at Expiring Tax Provisions

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Amir El-Sibaie

The recently passed Tax Cuts and Jobs Act (TCJA) added numerous temporary provisions to the tax code, which can be hard to keep track of. Thankfully, the Joint Committee on Taxation (JCT) recently put out an overview on all expiring and already expired tax provisions between 2016 and 2027. While many of these temporary provisions are relatively minor, some, like the numerous individual provisions expiring in 2025, are particularly worth noting.

The first provisions set to expire in 2018 are the Airport and Airway Trust Fund excise taxes, which are set to expire March 31st. Following that, at the end of 2018, the medical expense deduction will become less generous. Currently, taxpayers can itemize their medical expenses if they exceed 7.5 percent of their Adjusted Gross Income (AGI), but come January 1st, 2019, medical expenses will have to exceed 10 percent of a taxpayer's AGI if they are to be itemized. Lastly for 2018, taxes related to the Black Lung Disability Trust Fund will also expire.

September of 2019 will mark the expiration of fees applied on both specified health-care insurance policies and self-insured health-care plans. The new markets tax credit, employer credit for paid family and medical leave, and the work opportunity credit will expire at the end of 2019. Additionally, the end of 2019 also marks the last possible beginning-of-construction date for wind renewable power facilities eligible for the electricity production or investment credit. The look-through treatment of payments between related controlled foreign corporations (CFCs), which required corporations to file assets and income of certain subsidiaries as their own, will also expire. Lastly, numerous provisions which generally lower alcohol tax rates will also expire at the end of 2019.

The end of 2020 will see only one tax credit expire, a narrowly applied credit targeting advanced nuclear power facilitates.

In September of 2021, a surtax on fuel used in aircraft in fractional ownership programs (where multiple owners share the costs related to purchasing and operating an aircraft) will expire. Additionally, December 31st, 2021, marks the expiration of the credit for individuals for residential solar property and the final beginning-of-construction date for businesses claiming the increased credit for solar energy property.

At the end of 2022 perhaps the most important temporary tax provision will begin to phase out: full expensing for equipment (also known as 100 percent bonus depreciation). This provision will begin to phase out starting December 31st, 2022, at which point the deduction percentage will decrease by 20 percent yearly, resulting in its complete expiration by the end of 2026. Full expensing for equipment is one of the most pro-growth aspects of tax reform, yet temporary implementations fall short of delivering on growth and inevitably cost substantial amounts of revenue.

The end of September 2022 will mark the expiration of numerous Highway Trust Fund excise taxes. This includes the tax on heavy truck tires, the tax on retail sale of heavy highway vehicles, the reduced rate of tax on partially exempt methanol or ethanol fuels, and all but 4.3 cents-per-gallon of the taxes on highway gasoline, diesel fuel, kerosene, and alternative fuels. On a relatively minor note, the Leaking Underground Storage Tank (LUST) trust fund financing rate will also expire in September of 2022. In 2023, the annual use tax on heavy highway vehicles will also expire. Congress last reached a deal on extending funding for the Highway Trust Fund at the end of 2015, and has yet to propose legislation that permanently appropriates a satisfactory amount of revenue for the

Highway Trust Fund. Despite these taxes expiring in 2022 and 2023, it is also unlikely that the Highway Trust Fund remains solvent past the end of FY 2020, warranting a solution before tax provisions expire. It is possible that all taxes related to the Highway Trust Fund could continue to be extended shortly before they expire, but a more permanent source of revenue would be preferable.

While nothing is currently set to expire in 2024, December 31st, 2025, will be a significant day for most taxpayers. Twenty-three provisions from the Tax Cuts and Jobs Act directly relating to individual income taxes will expire, meaning most taxpayers will see a tax hike unless some or all provisions are extended. Some of the most impactful provisions scheduled to expire include the TCJA's reduction of individual income rates, increased child tax credit, the increased AMT exemption and phaseout threshold, and the increased standard deduction. The individual income tax code is effectively scheduled to return to what it was before the TCJA, meaning personal exemptions, the overall limitation on itemized deductions, uncapped state and local tax deductions, and many other miscellaneous itemized deductions will return. Despite most of the individual income tax code returning to its pre-TCJA structure, inflation adjustments will continue to be determined by the Chained Consumer Price Index (C-CPI), as set by TCJA, which will result in most taxes increasing when compared to their pre-TCJA levels. Additionally, the qualified business income deduction, which allows pass-through businesses to deduct up to 20 percent of their income, will also expire. For a full list of the twenty-three expiring provisions, consult this JCT publication.

From then on at the end of 2026 the only two provisions that expire are the remaining portion of full expensing for equipment (following a five-year phaseout) and the election of additional depreciation for certain plants. Following along, at the end of 2027 the only provision scheduled to expire is the expensing of certain costs related to replacing citrus plants.

While many of the expiring provisions only apply to narrow subsets of the general U.S. population, the expiration of the TCJA's individual provisions at the end of 2025 remains of particular importance. There will likely be an upcoming policy debate on whether to extend individual tax relief and other structural reforms, and many metrics directly related to the TCJA's impact on the economy and government revenue over the next eight years will shape that debate.