



What to expect in the year ahead  
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Aug. 15, 2024

# Federal Tax Reform

What to expect in the year ahead

TEI-SJSU High Tech Tax Institute  
November 5, 2024

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# 2024 Election

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# Potential election outcomes



**Democrats control House, Senate and White House**



**Republicans control House, Senate and White House**



**Mixed government**



# Tax Cuts & Jobs Act (TCJA)

# Tax Cuts and Jobs Act: 2025 - Overview

**35 of 124 TCJA provisions expire at the end of 2025**

**The remaining 89 provisions in TCJA are 'permanent'**

Some of the 'permanent' TCJA provisions have deferred aspects to them that change the rate of taxation of certain income at the end of 2025: GILTI, BEAT and FDII.

TCJA contained \$5.5 trillion in tax cuts over 10 years and \$4.0 trillion in tax increases for a net 10-year cost of \$1.5 trillion

OECD (Pillar I and Pillar II) which affect the international tax rules will be a central part of the debate even though they were not part of TCJA

**The tax reform process will be unpredictable, difficult to follow at times and full of conflicting claims**

Source: CRS Report R47846, *Reference Table: Expiring Provisions in the "Tax Cuts and Jobs Act" (TCJA, P.L. 115-97)*, November 21, 2023

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## TCJA: 2025 – Expiring Provisions

### Individuals/Pass-throughs

- **Rates:** Modification of individual income tax rates and tax brackets (top marginal rate 37% to 39.6%)
- **Standard deduction:** Increase in standard deduction
- **Personal exemptions:** Suspension of deduction for personal exemption allowances
- **Itemized deductions:**
  - Limitation on deduction for state and local taxes
  - Suspension of miscellaneous itemized deduction
  - Suspension of overall limitation on itemized deductions
  - Limitations on deduction for qualified residence interest, suspension of deduction for home equity interest
  - Increase in percentage limitation on cash contributions to public charities
  - Personal casualty losses limited to federally declared disaster areas
- **Alternative minimum tax (AMT):** Increase in exemption amount and phaseout threshold of individual AMT
- **Child tax credit:** Increased credit amount, increased refundable amount, reduced earned income threshold, and modification of identification requirements
- **Debt discharge:** Exclusion from gross income of discharge of indebtedness on principal residence

## TCJA: 2025 – Expiring Provisions (cont.)

### Individuals/Pass-throughs (cont.)

- **Qualified business income deduction of 20%** (section 199A)
- **Casualty losses:** Personal casualty losses limited to federally declared disaster areas
- **Student loans:**
  - Special rule for certain discharges of student loans
  - Exclusion for certain employer payments of student loans
- **Fringe benefits:**
  - Suspension of exclusion for reimbursement of bicycle commuting expenses
  - Suspension of exclusion for moving expense reimbursement
- **Gambling losses:** Modification of rules relating to computation of wagering losses
- **ABLE accounts:** Certain changes to ABLE accounts

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## TCJA: 2025 – Expiring Provisions (cont.)

### Business

- **Fringe benefits:** Deductibility of employer de minimis meals and related eating facility, and meals for the convenience of the employer
- **Medical leave:** Employer credit for paid family and medical leave
- **Pensions:** Transfer of excess pension assets to retiree health and life insurance accounts
- **Credits:**
  - New markets tax credit
  - Work opportunity credit
- **Beginning-of-construction date:**
  - Certain qualified carbon oxide sequestration facilities
  - Offshore wind facilities eligible to claim the investment credit in lieu of the renewable electricity production credit
- **Empowerment zone tax incentives**

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## TCJA: 2025 Expiring Provisions (cont.)

Increase in  
estate and  
gift tax  
exemption

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## TCJA: 2025 – International

### Deferred Effective Dates

- **GILTI:** Deduction percentage for global intangible low-taxed income. **Effective rate 10.5% → 13.125%**
- **BEAT:** Rate on modified taxable income and treatment of credits in the calculation of base erosion minimum tax amount. **Effective rate becomes 12.5%**
- **FDII:** Deduction percentage for foreign-derived intangible income. **Effective rate becomes 21.875%**

*What about the OECD Pillar Two?*

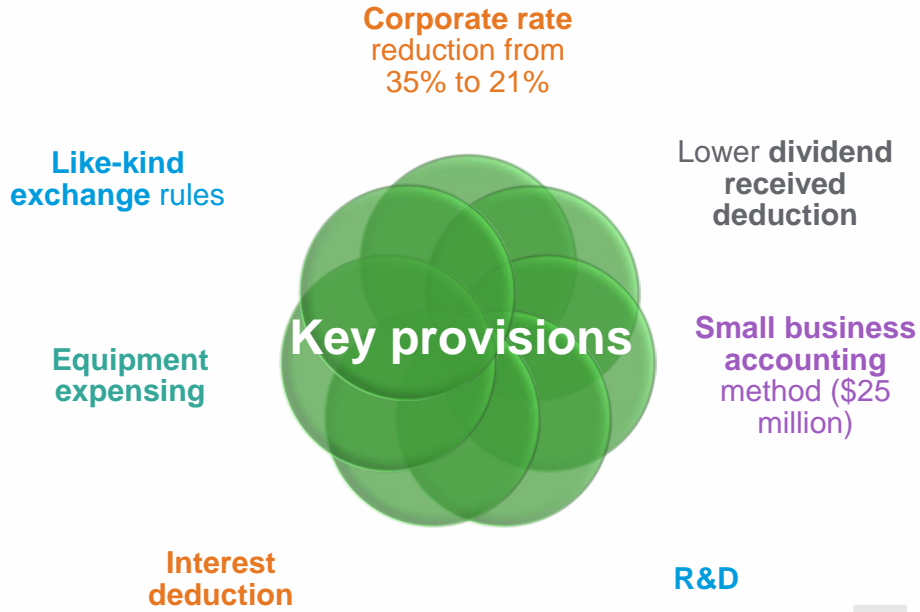
**It's complicated!**

### Expiring

- **CFC:** Look-through treatment of payments between related controlled foreign corporations under the foreign personal holding company rules

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# TCJA: What does *not* expire?



# TCJA: 2025 – What is on the table?



# Federal Tax Data

Has the relative distribution of who pays income tax changed?

Income Class	% of Returns			% of Tax Liability		
	2016	2023	% Pt Change	2016	2023	% Pt Change
Below 30,000	36%	25%	-11%	-4%	-3%	1%
30,000 - 40,000	9%	9%	0%	0%	-1%	-1%
40,000 - 50,000	8%	8%	0%	1%	0%	-1%
50,000 - 100,000	25%	27%	2%	12%	6%	-6%
100,000 - 200,000	16%	20%	4%	26%	20%	-6%
200,000 and over	6%	11%	5%	66%	78%	12%
Total	100%	100%	0%	100%	100%	0%

Sources: Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2016-2020* (JCX-3-17, Jan. 30, 2017, Table 2, page 42) and *Estimates of Federal Tax Expenditures for Fiscal Years 2023-2027* (JCX-59-23, Dec. 7, 2023, Table 2, page 41).

# Change in tax liability by income level

Income Class	Total Tax Liability			Average Tax Liability		
	2016	2023	Change	2016	2023	Change
Below 30,000	(74,176)	(67,323)	6,853	(1,185)	(1,473)	(287)
30,000 - 40,000	(4,434)	(19,082)	(14,648)	(279)	(1,123)	(844)
40,000 - 50,000	11,818	(3,248)	(15,066)	883	(231)	(1,113)
50,000 - 100,000	214,128	151,571	(62,557)	4,867	3,067	(1,800)
100,000 - 200,000	454,895	483,297	28,402	15,934	12,920	(3,014)
200,000 and over	1,173,096	1,906,866	733,770	117,994	98,125	(19,869)
Total	1,775,326	2,452,083	676,757	10,182	13,397	3,215

Sources: Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2016-2020* (JCX-3-17, Jan. 30, 2017, Table 2, page 42) and *Estimates of Federal Tax Expenditures for Fiscal Years 2023-2027* (JCX-59-23, Dec. 7, 2023, Table 2, page 41).

# Tax reform: 7 key factors

## Environmental Factors

- Size of the federal debt
- Interest rates
- Consequence of expiration
- Congressional makeup

## Timing

## Conceptual Framework

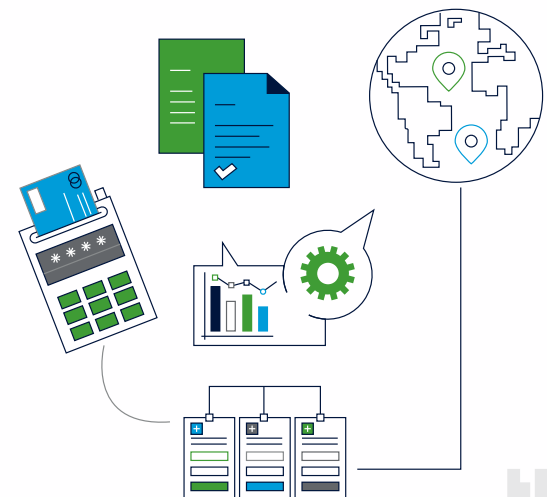
- TCJA
- Trump
- Harris

## Content

## Pay Fors

## Permanent or temporary

## Key issues





# 2025 Tax Legislation Areas of Greatest Focus

## Tax legislation 2025: key focus areas

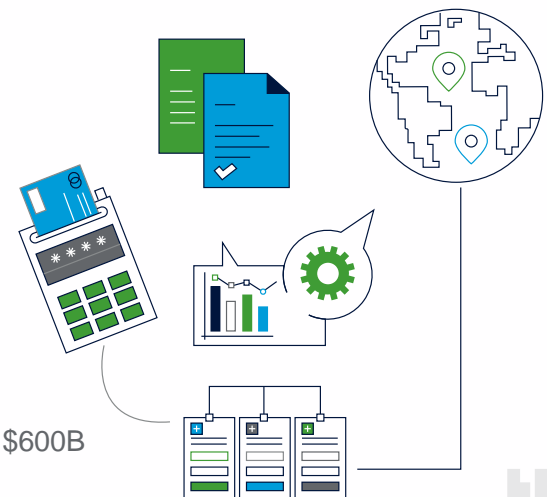
### Individuals

- Ordinary rates
- Itemized deductions
- Capital gains rates
- Carried interest
- Estate and gift
- Retirement savings
- Child tax credit

### Businesses

- Pass-through deduction
- Corporate rates
- International taxation
- R&D
- Interest expense
- Capital expensing

Cost of extending TCJA: Revenue - \$4T + Interest expense \$600B



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