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WEALTH MANAGEMENT

A Different Kind of Sunset: Navigating the Looming Tax Changes of the Tax Cuts and Jobs Act Expiration

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In a little over a year from now, many taxpayers may be surprised by a larger tax bill. The Tax Cuts and Jobs Act (TCJA) of 2017 significantly overhauled the U.S. tax code, introducing many changes to individual and corporate tax structures. However, many of the provisions included in the TCJA are set to expire at the end of 2025, potentially causing substantial shifts in tax liability for individuals and businesses. As December 31, 2025, approaches, it's important to understand the upcoming changes, the implications of these changes and explore strategies to mitigate potential impacts.

What is the Tax Cuts and Jobs Act?

The Tax Cuts and Jobs Act was introduced in Congress and signed into law toward the end of 2017. This landmark legislation marked the first major overhaul of the U.S. tax code since 1986, implementing sweeping tax cuts on both the individual and corporate levels. Some of these changes were permanent, including a reduction in the corporate tax rate from top rate of 35% to a flat 21%. However, twenty-three key provisions in the TCJA were enacted on a temporary basis and are set to expire at the end of 2025 unless Congress acts to preserve some or all of them. With the uncertainty around the 2024 election and subsequent policy debate, it remains unclear which provisions, if any, will be extended.

Estate and Gift Tax

One of the more impactful changes for high-net-worth individuals was the near doubling of the estate and gift tax exemption limits. For 2025, the lifetime exemption from estate and gift taxes is $13.99 million per person, $27.98 million for a married couple. This higher exemption is set to revert to the pre-TCJA level, adjusted for inflation, and is expected to be around $7.25 million per individual, $14.5 million per married couple, on January 1, 2026. The same sunset provisions also apply to the Generation Skipping Transfer Tax (GSTT) exemption.

What can you do with this information?

For individuals and families with taxable estates above the current exemption amount who want to transfer wealth to children and other descendants, there are a number of strategies to consider before the end of 2025. If the exemption amounts revert back to pre-TCJA figures and you were not prepared, you could potentially miss an opportunity to transfer significant sums of wealth out of your taxable estate gift tax-free. While using the higher exemption amount can be beneficial, it's important to be mindful of the pitfalls of overplanning and transferring too much. A J.P. Morgan professional can work with you and your estate planning attorney to determine what assets you need to keep for your lifestyle and what assets you have in excess that can be used to make transfers that take advantage of the currently higher exemption amounts.

In order to take advantage of the current higher exemptions, you have to be willing—and able—to give away more than the future amount of the exemption. So if the TCJA in fact sunsets at the end of 2025 and the exemption beginning in 2026 is about $7.25 million, you have to give away more than $7.25 million before the end of 2025. While making a gift of a smaller amount can still be beneficial for your beneficiaries, it won't allow you to use the higher exemptions.

If you do have excess assets available and want to consider making large gifts, some strategies to consider with your estate planning attorney before the exemption sunsets include:

Outright Gifts

One of the most straightforward ways to move assets out of your taxable estate and into the hands of children or grandchildren is through outright gifting. In 2025, the annual exclusion amount will be $19,000 per person ($38,000 per married couple), allowing you to gift this amount to each recipient without affecting your lifetime exemption. Any gifts exceeding this annual exclusion to non-spouse or non-charitable beneficiaries count against the lifetime exemption. If these gifts are made to grandchildren, you can also allocate some of your GSTT exemption to the gift. Depending on the goals of the family and the intent of the wealth transfer, outright gifts could be a good strategy to consider to use up the higher lifetime exemption amount.

Note, however, that outright gifts are generally not protected from a beneficiary's creditors—including a potential future ex-spouse—and may be subject to distribution in the event of divorce. Many people prefer to use trusts to maintain some control and to prevent the beneficiaries from losing their inheritance, as well as to maintain their children's incentive to work and establish independent lives without relying on their inheritance.

Spousal Lifetime Access Trusts (SLATs):

A SLAT is an irrevocable trust that enables one spouse to make a gift that can benefit the other spouse during the beneficiary spouse's lifetime. A SLAT may be a useful strategy for a couple who wants to use up their lifetime exemption by gifting assets to an irrevocable trust, but are not ready to completely remove the ability of both spouses to enjoy the benefits of those assets. The beneficiary spouse can receive distributions from the SLAT in line with the SLAT's terms. If the beneficiary spouse avoids requesting distributions from the trust, the SLAT's assets may increase in value and ultimately pass for the benefit of non-spousal beneficiaries. The grantor spouse may be able to allocate GSTT exemption to the SLAT if the trust property will be held in a Dynasty Trust (see below) for the benefit of multiple generations. SLATs are often designed as grantor trusts, which allows the donor to pay the trust's income taxes on his or her individual income tax return, resulting in further reducing the grantor's taxable estate without making additional taxable gifts, effectively allowing the SLAT's assets to grow tax-free.

There are several considerations when thinking about setting up a SLAT with your estate planning attorney. If the beneficiary spouse dies before the donor spouse, the donor spouse loses indirect access to the trust assets. The trust assets are set aside solely for the benefit of the remainder beneficiaries of the trust, generally children and grandchildren. If the donor spouse is relying on indirect access to maintain his or her lifestyle, the death of the beneficiary spouse will negatively impact the donor spouse's lifestyle.

Another consideration is a divorce. Often, depending on the source of the funds, a SLAT will have language that terminates the beneficiary spouse's interest in the trust in the event of a divorce. However, this will also cause the donor spouse to lose their indirect access to trust's assets.

A third consideration is what's known as the reciprocal trust doctrine. If both spouses wish to create SLATs, the trusts need to be sufficiently different to avoid running afoul of reciprocal trust doctrine. If the trusts are deemed to be reciprocal trusts, there could be unintended transfer tax consequences. To help minimize these risks, among other things, you should work with your estate planning attorney to consider differences in the spouse's SLATs such as: the funding amount of the trusts, the year in which the trusts are created and funded, different assets used to fund the trusts, different independent trustees, different classes of income beneficiaries and/or remaindermen, and different terminating event provisions. The more differences in economic terms regarding the trusts the greater the likelihood of the trusts being respected and avoiding estate tax inclusion for either spouse due to the reciprocal trust doctrine.

Dynasty Trusts

A dynasty trust is an irrevocable trust intended to last for multiple generations. In most states a dynasty trust can last for about 100 years, but in some states, a dynasty trust allows assets to grow free of estate and GSTT for 300 years or more! The transfer tax-free growth of dynasty trust assets allows individuals to provide for their remote descendants in a tax-efficient way. Working with your estate planning attorney to establish a dynasty trust in one of the jurisdictions that allows nearly perpetual trusts could allow you to provide for future descendants into perpetuity, making good use of today's higher exemption amounts through a tax-optimized solution.

Income Tax

One of the significant changes introduced by the TCJA that impacted a majority of taxpayers was the reduction of individual tax rates across several income brackets, including a decrease in the top marginal rate from 39.6% to 37%. While the law maintained the seven-bracket rate structure, income thresholds were updated. These rates are set to revert to pre-TCJA levels on January 1, 2026. In 2025, a married couple filing jointly reaches the 37% bracket with taxable income of $751,600. If this provision of the TCJA sunsets, this same couple will reach the 39.6% tax bracket at a potentially much lower income threshold. The narrowing of tax brackets will result in higher federal income tax liabilities for higher-income taxpayers. Some income tax strategies to consider include:

Roth Conversions

Converting some of your traditional IRA assets into a Roth IRA may help you save on taxes in the future. One advantage of Roth IRAs is that the assets grow tax free and withdrawals are not subject to income tax. Roth IRAs are not subject to required minimum distributions (RMDs) for the owner or their surviving spouse. Depending on legacy goals you may have, Roth IRAs can be beneficial for estate planning, since beneficiaries can inherit the Roth IRA and withdraw funds tax-free over a period of time based on specific distribution rules. When you convert your traditional IRA assets to a Roth IRA, you pay income taxes on the amount converted at the time of conversion. This strategy can be

particularly advantageous if you expect to remain in the highest tax bracket during retirement. Working with your tax advisors to review your 2024 and 2025 tax situation will help determine what amount, if any, could be converted at an attractive tax rate compared to the post-sunset rate. Converting to a Roth IRA is particularly attractive for taxpayers who have a longer time horizon, whose RMD payments may be taxed at higher income tax rates in future years and who can pay the tax liability associated with the conversion with other, non-IRA assets.

Accelerating Ordinary Income

If your top ordinary income tax rate is projected to be higher post-sunset than it is today, you can consider accelerating any deferred ordinary income or bonus payments into 2024 or 2025, if you are able, to take advantage of the lower tax rates. If you are not in the highest tax bracket already, accelerating income may push you into a higher bracket for the current year, potentially increasing your overall tax liability—but if the same income is taxable at 37% in 2024 or 2025 and would be taxable at 39.6% in 2026 and beyond, it may be worthwhile nevertheless. Work with your tax advisor to determine if this strategy makes sense for your individual situation.

Standard and Itemized Deductions

Other TCJA provisions that impacted a majority of taxpayers included significant changes to standard and itemized deductions, many of which are set to expire at the end of 2025. The standard deduction was nearly doubled under TCJA and, for 2025, will be $15,000 per individual ($30,000 for those married filing jointly). Starting in 2026, the standard deduction will revert to the pre-TCJA levels, effectively cutting the deduction in half.

There were limitations imposed on certain itemized deductions and these are set to expire at the end of 2025. Due to the increase in the standard deduction and the limitations on itemized deductions, fewer taxpayers benefited from itemizing. Once the limitations on the itemized deductions sunset, itemizing may become more attractive for high income taxpayers, although the Pease limitation, a provision on limiting the amount of itemized deductions for high-income taxpayers, is scheduled to reappear after 2025 and could limit this benefit somewhat. Examples of these itemized deductions include:

State and Local Taxes

The TCJA imposed a $10,000 cap on the deductibility of state and local taxes (SALT). Many taxpayers pay more than this amount taking into account state and local income taxes and property taxes. The sunset of the $10,000 cap will be favorable for many taxpayers, allowing them to once again deduct all state and local property taxes and income taxes (or sales taxes in states without income taxes).

Mortgage Interest Deduction

The TCJA reduced the mortgage interest deduction to apply only to interest on mortgages of up to $750,000. Starting in 2026, the mortgage interest deduction limit will revert back to pre-TCJA levels, increasing to $1 million of indebtedness, and the home equity interest deduction will once again be available for interest on up to $100,000 of debt.

Moving Expenses

The TCJA temporarily eliminated the moving expense deduction for most taxpayers. Starting January 1, 2026, taxpayers with qualifying moving expenses may once again deduct these costs if they meet the required criteria, such as being related to a job change or relocation, and if they exceed a specific percentage of adjusted gross income (AGI).

Miscellaneous Deduction

The TCJA eliminated the ability to deduct miscellaneous items. Starting January 1, 2026, miscellaneous itemized deductions, such as investment management and trustee fees, tax planning and preparation fees, and unreimbursed employee expenses, will again be deductible to the extent they exceed 2% of adjusted gross income.

Other Individual Tax Provisions

Other noteworthy changes to individual tax structures include:

Charitable Deduction

The TCJA increased the limit on charitable deductions to 60% of adjusted gross income (AGI) for gifts of cash to public charities. In 2026, this will revert back to a limit of 50% of AGI. The deduction for gifts of appreciated securities to public charities will remain at 30% of AGI.

Child tax credit

Under the TCJA, the child tax credit was increased from $1,000 to $2,000 per qualifying child. The income threshold for phase out of the credit was also increased to $400,000 for a married filing jointly couple. This higher tax credit is set to revert to the pre-TCJA amount of $1,000 per qualifying child in 2026, and the income threshold for phase out of the credit will drop back down to $110,000 for a married filing jointly couple.

Personal exemptions

The TCJA temporarily suspended personal exemptions. The personal exemption will return in 2026 with the sunsetting of the TCJA. The personal exemption will be $2,000 per taxpayer and qualified dependents, adjusted for inflation. This exemption will phase out at higher income levels, reducing or eliminating the benefit for higher-income taxpayers.

Achieving a Better Life Experience (ABLE) Accounts

The TCJA allowed employed ABLE-account beneficiaries to make additional contributions beyond the gift tax annual exclusion amount, up to the lesser of the federal one-person poverty limit or their compensation. TCJA also permits for a 60-day rollover from a designated beneficiary's 529 college account to that same beneficiary's ABLE account without it being treated as a taxable event. These changes are set to expire at the end of 2025. Starting January 1, 2026, the contribution limit to ABLE accounts will revert back to the annual exclusion amount and rollovers from 529 plans to ABLE accounts will be taxable.

Business Tax Provisions

The most notable change to the corporate tax code was the permanent reduction of the corporate tax rate from a top rate of 35% to a flat 21%. However, several other provisions related to business tax were not made permanent, namely the qualified business income deduction and bonus depreciation on qualified property.

Qualified Business Income (QBI) Deduction

The QBI deduction, also known as the Section 199A deduction, was enacted to reduce the tax burden on income generated by pass-through businesses. It allows business owners to deduct up to 20% of their qualified business income from their taxable income, effectively lowering their overall tax liability. The deduction is available to individuals, including sole proprietors, partners in partnerships, shareholders of S-corporations, and certain owners of rental real estate, and applies to income derived from a qualified trade or business.

If the QBI deduction sunsets without replacement, business owners may lose this tax benefit, potentially increasing their taxable income and overall tax liability. If you are currently benefiting from the QBI deduction, you may want to review your tax strategy with a professional tax advisor considering these potential changes. This may include planning for higher taxable income or adjusting your business operations to maximize any available deductions. You may also want to consider whether a change in business entity structure to a C-corporation, to take advantage of the lower corporate tax rate, makes sense for your particular business and individual tax scenario.

Bonus Depreciation on Qualified Property

Bonus depreciation is a tax provision that allows businesses to deduct a large portion of the cost of qualifying assets in the year they are placed in service. This accelerated depreciation provides a substantial tax benefit by enabling businesses to recover their investments more quickly and reduce their taxable income in the short term. The TCJA significantly expanded the bonus depreciation provision by allowing businesses to deduct 100% of the cost of qualified property in the year the property is placed in service. Prior to the TCJA, bonus depreciation was allowed at 50%. The TCJA also expanded bonus depreciation to be applied to used property.

Starting January 1, 2027, bonus depreciation will revert to 0% unless new legislation is enacted to extend or modify the provision. To maximize the benefits of bonus depreciation before it phases out, business owner taxpayers may consider accelerating their capital expenditures and purchasing and placing assets in service before the end of 2026 to take advantage of the higher deduction rates available through 2026.

Alternative Minimum Tax

The alternative minimum tax (AMT) is a parallel tax system in the United States designed to ensure high-income earners and corporations pay a minimum level of tax by limiting certain deductions and credits. Those subject to the AMT must calculate their tax liability annually under both the regular tax system and the AMT system, paying the higher of the two amounts.

The TCJA included provisions that significantly reduced the impact of the AMT. The law also enacted a higher AMT exemption, raised the income level at which the exemption begins to phase out, and repealed or scaled back some of the largest AMT preference items, like the SALT deduction. The AMT exemption for 2025 is $88,100 for a single taxpayer and $137,000 for taxpayers who are married filing jointly. The AMT exemption phases out at $626,350 for a single taxpayer and at $1,252,700 for taxpayers who are married filing jointly. If Congress does not act to extend these provisions, the AMT exemption will drop to the pre-TCJA levels of roughly $54,300 for single taxpayers and $84,500 for married filing jointly taxpayers. The AMT exemption phase out will also drop to $120,700 for single taxpayers and $160,900 for married filing jointly taxpayers. The Tax Policy Center estimates that 7.2 million taxpayers will be impacted by the AMT if Congress does not act.

What can you do with this information?

One strategy to consider implementing before the sunset is exercising incentive stock options (ISOs) that have vested. When you exercise ISOs, the difference between the exercise price (the price you pay for your shares of stock) and the fair market value (FMV) of the stock is considered a preference item for AMT purposes. This amount gets added back to calculate your AMT income, potentially increasing your AMT liability even if you do not sell the stock. With the AMT exemption set to drop at the end of 2025, now may be an opportune time to review your tax situation, see if you have ISOs you can exercise, and consider taking action by exercising them.

In conclusion

The impending sunset of the TCJA provisions presents challenges and opportunities for taxpayers. By understanding the potential impacts and employing proactive strategies, you can better position yourself to manage any tax changes that may arise. Consult with a J.P. Morgan professional and your individual tax advisors to get insights tailored to your specific situation, ensuring you are well-prepared for 2026.

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