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What You Need to Know About the Looming 'Sunset' of the Tax Cuts and Jobs Act

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Most of the tax changes in the 2017 Tax Cuts & Jobs Act expire at the end of 2025. Do you have a plan in place?

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READY FOR THE SUNSET?

THE CLOCK IS TICKING...

Unless Congress acts, the Tax Cuts and Jobs Act (TCJA) of 2017 is set to "sunset" as of Dec. 31, 2025. Why should you care? Several of the TCJA provisions set to expire could surprise many Americans. On Jan. 1, 2026, U.S. taxpayers could be looking at higher income tax brackets, the standard deduction could be cut almost in half, as would the estate and gift tax exemption amount. And that's just the start.

Fortunately, you still have time to prepare. Working with your financial advisor, take a hard look at your estate and income tax planning to explore steps to mitigate the potential impact. Below, we share the key elements of the TCJA sunset to consider:

Income Tax Rate Implications

Americans currently enjoy some of the lowest federal income tax rates in recent history. However, those relatively low tax rates may not last if the TCJA is allowed to expire. Federal marginal income tax rates will revert to their pre-TCJA levels of 10%, 15%, 25%, 28%, 33%, 35%, and 39.6% as of Jan. 1, 2026, again unless Congress acts.

In addition, aside from the first two brackets (10% and 15%), these rates apply to different, more compressed taxable income ranges than the TCJA rates.

TCJA (2024)		
ORDINARY INCOME TAX BRACKETS		
TAX RATE	MFJ BRACKETS	SINGLE BRACKETS
10%	$0 - $23,200	$0 - $11,600
12%	$23,201 - $94,300	$11,601 - $47,150
22%	$94,301 - $201,050	$47,151 - $100,525
24%	$201,051 - $383,900	$100,526 - $191,950
32%	$383,901 - $487,450	$191,951 - $243,725
35%	$487,451 - $731,200	$243,726 - $609,350
37%	Over $731,200	Over $609,350
TAX RATE	TRUST BRACKETS	
10%	$0 - $3,100	
24%	$3,101 - $11,150	
35%	$11,151 - $15,200	
37%	Over $15,200	

POST–TCJA (2017 TAX NUMBERS INFLATED TO 2024)[1]		
ORDINARY INCOME TAX BRACKETS		
TAX RATE	MFJ BRACKETS	SINGLE BRACKETS
10%	$0 - $23,100	$0 - $11,550
15%	$23,101 - $94,100	$11,551 - $47,050
25%	$94,101 - $189,850	$47,051 - $113,950
28%	$189,851 - $289,250	$113,951 - $237,650
33%	$289,251 - $516,750	$237,651 - $516,750
35%	$516,751 - $583,750	$516,751 - $518,850
39.6%	Over $583,750	Over $518,850
TAX RATE	TRUST BRACKETS	
15%	$0 - $3,150	
25%	$3,151 - $7,400	
28%	$7,401 - $11,300	
33%	$11,301 - $15,500	
39.6%	Over $15,500	

The TCJA also significantly reduced the number of taxpayers who are subject to the alternative minimum tax (AMT) by increasing the AMT exemption. However, that exemption threshold is set to return to pre-TCJA levels, which means a significant number of taxpayers can once again expect to pay AMT according to new (reverted) AMT rates, assuming the TCJA expires.

ALTERNATIVE MINIMUM TAX (AMT)		
AMT FACTOR	MFJ	SINGLE
Exemption Amount	$133,300	$85,700
28% Tax Rate on Income Over	$232,600	$232,600
Exempt Phaseout Threshold	$1,218,700	$609,350
Exemption Elimination	$1,751,900	$952,150

ALTERNATIVE MINIMUM TAX (AMT)		
AMT FACTOR	MFJ	SINGLE
Exemption Amount	$104,800	$67,300
28% Tax Rate on Income Over	$232,900	$232,900
Exempt Phaseout Threshold	$199,500	$149,700
Exemption Elimination	$618,700	$418,900

Income Tax Planning Opportunities

The potentially higher income tax rates if the current law sunsets warrant further attention in light of the Setting Every Community Up for Retirement Enhancement (SECURE) Act. For background, the SECURE Act pushed the required minimum distribution (RMD) age for retirement accounts (such as 401(k) plans) from age 70.5 to 72. Then, the SECURE 2.0 Act pushed the RMD age out further to age 73, and 75 for those born after 1960.

Now, it's important to understand that higher RMD age limits leave more time for retirement balances to grow, ultimately resulting in larger RMDs. This can create income tax bracket "creep," essentially pushing taxpayers into a higher tax bracket. If the TCJA does indeed expire, that could push taxpayers into even higher income tax brackets. The impact could be further compounded by increasing Medicare costs due to the Income-Related Monthly Adjustment Amount (IRMAA), which is a surcharge that those with income above a certain amount must pay in addition to their Medicare Part B and Part D premiums. Not only that, surviving spouse RMDs would likely be set at single tax rates, which reach higher tax brackets more rapidly than those for married couples. Clearly, a sunset of the TCJA would create a "domino effect" on income tax rates and the amount of tax Americans can expect to pay.

There are several strategies to explore with your wealth advisory team to lessen the impact of the "perfect storm" created by the combination of the potential TCJA sunset and the SECURE Act. Below are four to consider:

1. Consider a "Goldilocks" approach to Roth conversions

Converting to a Roth IRA from a traditional IRA or other retirement account makes it possible to pay taxes today while we still enjoy historically low-income tax rates. It's important to understand that Roth conversions are not "all-or-nothing" situations. You can convert only enough to avoid being in the next higher income tax bracket, often called "bracket topping." One might even consider topping the next tax bracket (ex., converting enough to reach the top of the 24% bracket if one is in the 22% bracket).

Doing so can take advantage of today's low tax rates, especially if you anticipate being in a higher tax bracket long term. In addition, moving funds from traditional to Roth retirement accounts can lower future RMDs and create more tax efficiency for retirement income needs, or for heirs, with any unused balances

2. Still working? Take another look at Roth retirement contributions

For those who are still working, contributing to a Roth retirement plan versus a traditional retirement plan allows for taxes owed to be paid today at lower income tax rates, instead of the potentially higher brackets that could be a reality starting in 2026. Particularly if someone expects to be in a higher bracket long-term, making Roth contributions rather than traditional retirement plan contributions is particularly tax-efficient.

3. Consider QCDs for the philanthropically minded

Another strategy to discuss with your wealth advisory team is the use of qualified charitable distributions (QCDs). This strategy enables individuals age 70.5 or older to move assets from a traditional IRA to qualified charities. Doing so can drive down future RMDs, which again could be taxed at higher rates if the current tax brackets are allowed to sunset. In addition to supporting charitable organizations, QCDs can ultimately benefit any heirs, as it's more tax-efficient for them to inherit cash or appreciated securities that would otherwise be gifted to charity. The step-up in basis on securities at death eliminates capital gains during one's lifetime. That means any heirs would be taxed on a much smaller gain when they sell the securities. Any post-death gain would be taxed at the time of sale at preferential capital gain rates (currently 0%, 15%, or 20%). This is a more favorable tax outcome for heirs than receiving traditional retirement plan dollars that would be taxable at ordinary marginal income tax rates, most likely over a 10-year window.

4. Don’t neglect Inherited IRA distribution planning

For most non-spouse beneficiaries who have inherited retirement assets in 2019 or later, the SECURE Act has compressed the distribution window to 10 years. Based on proposed regulations from the IRS, whether you have to take RMDs from traditional pre-tax inherited retirement accounts during the 10-year window depends on if the person you inherited the account from passed away before or after their own RMD age. If they passed away before they had to start RMDs, the beneficiary has full flexibility regarding how to withdraw during the 10-year window, as long as the account is fully emptied by the end of that timeframe. If the original account holder passed away after the RMD age, the beneficiary must take RMDs based on his or her own life expectancy throughout the 10-year window.

Even if a beneficiary isn’t required to take a distribution or is required to withdraw a relatively small amount, it can be advantageous to spread distributions out over the 10-year window to avoid a large distribution and large tax hit in the final year. Therefore, in anticipation of the potential sunset of current income tax rates, consider treating inherited IRA distribution planning similar to the “bracket-topping” Roth conversion strategy described above.

Income Tax Deductions and Credits

Beyond impacting income tax rates, a TCJA sunset would also affect various tax deductions and credits. For individual taxpayers, one of the most notable changes would be eliminating the state and local tax (SALT) deduction cap. The TCJA limited this deduction to $10,000, but without an extension or new legislation, the cap will be removed, potentially allowing for larger deductions, depending on the taxpayer's state, local, and property tax obligations when combined with other potential itemized deductions.

On to the standard deduction. The TCJA nearly doubled the standard deduction for all tax filers ($14,600 for single filers and $29,200 for married filing jointly in 2024), which reduced the number of taxpayers choosing to itemize their deductions. If the TCJA expires, the standard deduction will be cut almost in half, likely leading to a rise in taxpayers opting to itemize. Taxpayers must keep track of their potential itemized deductions, such as SALT and property taxes, medical expenses, mortgage interest, charitable contributions, and more. If you itemize before TCJA or think you might should the sunset occur, keep track of potential deductions.

The reinstatement of personal exemptions may somewhat offset the lower standard deduction. For taxpayers with multiple dependents, the combination of several personal exemptions with the standard deduction (even at a lower level) could result in a decline in taxable income. However, for taxpayers who only have one or two personal exemptions to offset the decrease in the standard deduction, the sunset of TCJA could result in higher taxable income. Personal exemptions would phase out for higher income taxpayers.

Another deduction that the expiration of the TCJA would impact is the mortgage interest deduction. Post-TCJA sunset, the mortgage interest deduction limit would rise to $1 million versus $750,000. Plus, the mortgage interest deduction would no longer be required to be tied to "acquisition" debt, so home equity loan interest would once again potentially be deductible.

Furthermore, the TCJA eliminated most miscellaneous itemized deductions, such as investment advisory fees, legal fees, and unreimbursed employee expenses. Starting Jan. 1, 2026, those deductions will once again be allowed to the extent they exceed 2% of a taxpayer's adjusted gross income.

In addition, the Pease limitations would return, which prevent high-income taxpayers from lowering their taxable incomes by claiming large and numerous itemized deductions.

Finally, the child tax credit would drop by 50% and return to pre-TCJA levels, impacting a significant number of families who are eligible for this popular credit.

Deduction Planning Strategies

If you are considering using the equity in your home (HELOC, equity loan, reverse mortgage) as a source of liquidity, be aware that post-TCJA sunset, interest tied to home debt will be deductible (subject to limits) even if it is not used to buy, build, or improve your home.

Next, review your charitable giving strategies with the understanding that the itemizing of deductions will likely increase after the TCJA sunsets. Determine whether certain charitable giving strategies (ex., bunching donations) still make sense, and consider if alternative strategies (ex., consistent annual giving) would be a better strategy for you. Work closely with your financial advisor to make these determinations.

Also, consider how the anticipated increase to an unlimited SALT itemized deduction might increase your ability to itemize deductions and reduce your overall tax liability. That said, be aware that SALT deductions are added back in when determining AMT.

Special Considerations for Executives

For executives who have non-qualified stock options (NQSOs), examine whether it would be prudent to exercise any vested options while ordinary income tax brackets are relatively lower in anticipation that the TCJA could expire (and income brackets could go up).

In addition, explore whether making an 83(b) election (which pays the tax liability when stock is granted) before the sunset occurs makes sense for your situation. Again, connect with your financial advisor to make this determination.

If you have incentive stock options (ISOs), decide whether to exercise any vested ISOs while we are still in more favorable AMT thresholds. You may choose to sell ISOs (assuming you are in a favorable tax bracket) but understand whether the sale would be a qualifying disposition. That is when you sell shares at least two years from the grant date and at least one year from the exercise date, resulting in the profits being treated as long-term capital gains, usually a lower tax rate.

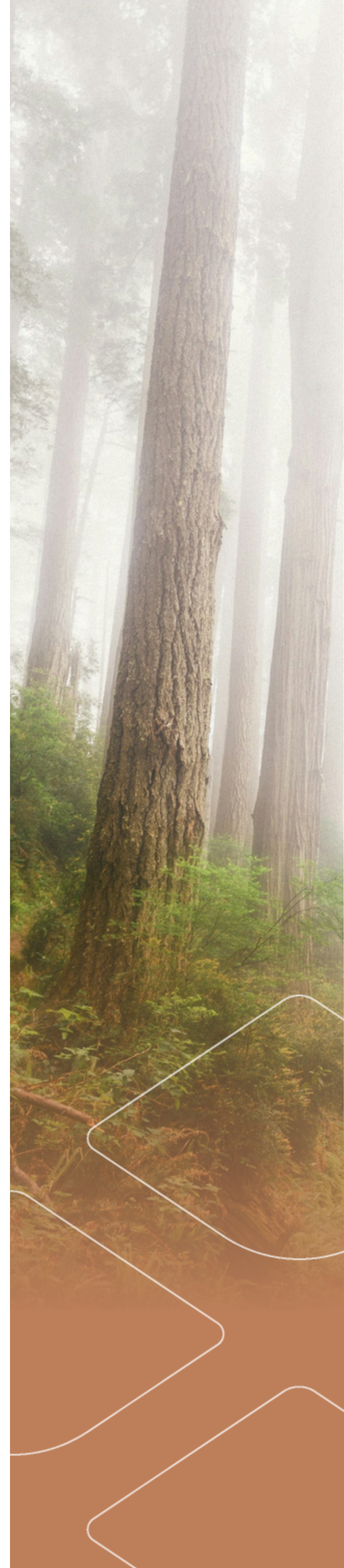
Special Considerations for Business Owners

For business owners planning large business-related purchases (e.g., new assets, property, etc.) in the near term, now is the time to determine if those assets may be eligible for bonus depreciation. It may make sense to accelerate your purchases before the bonus depreciation allowance is phased out if the TCJA sunsets. The TCJA allowed businesses to write off 100% of the cost of eligible property acquired and placed in service after Sept. 27, 2017, and before Jan. 1, 2023. The bonus percentage decreases by 20% each year (60% for 2024) until it eventually phases out completely after Dec. 31, 2026.

Business owners receiving (or anticipating receiving) the qualified business income (QBI) deduction should know how pre-tax retirement contributions may affect their ability to recognize the full extent of the QBI deduction. Consider prioritizing Roth retirement contributions while tax brackets are lower, especially if doing so would help preserve any QBI deduction (which is scheduled to sunset) you may be entitled to.

Utilizing the Estate and Gift Tax Exemption

High-net-worth Americans who are focused on an efficient and successful transfer of wealth need to know that if the TCJA is allowed to expire, the current lifetime estate and gift tax exemption of $13.61 million ($27.22 million for a married couple) will be cut in half, indexed for inflation.



That represents a significant potential tax hit for individuals and couples with sizable estates. For those with taxable estates above the exemption threshold, it's important to shore up estate plans and, where possible, take advantage of the current relatively high exemption amount using estate and gifting strategies.

Thankfully, multiple types of trusts, such as dynasty trusts, intentionally defective grantor trusts, spousal lifetime access trusts, charitable remainder trusts, and irrevocable life insurance trusts, can remove assets from your taxable estate and potentially keep the value of your estate below the threshold of the exemption amount. Consult with your financial advisor and estate planning attorney on these strategies.

An intentionally defective grantor trust (IDGT) places assets in the trust outside of your estate (and therefore not subject to estate tax), but any income the trust produces is taxed to you. That is a benefit because it allows you to spend down your estate, reducing what might be subject to estate tax. Plus, those tax payments will not be considered a future gift to any beneficiaries.

Another attractive option for married couples that builds upon an IDGT's benefits is a spousal lifetime access trust (SLAT). A SLAT allows for gifting under the current exemption amount while providing for considerable flexibility with trust assets. For example, your spouse can be named a beneficiary of a SLAT, thereby allowing you to access the assets in the trust through your spouse if needed in the future.

Charitable remainder trusts (CRTs) can be another excellent planning tool in the current high-interest rate environment, as they place a higher value on the remainder interest that goes to charity. A CRT also provides flexibility, as it allows you to receive an income stream during the duration of the trust, or you can redirect that income to any heirs.

After years of hikes, interest rates are expected to begin dropping soon, making this strategy less attractive at lower rates. If it aligns with your goals, take advantage of higher interest rates before they likely drop ahead of the expiration of the current exemption limits.

In the better safe than sorry category, consider purchasing life insurance through an irrevocable life insurance trust (ILIT) to pay for projected estate tax liabilities with assets outside your estate. It's best to do this sooner than later in case potential health issues emerge that could impact your insurability.

Making outright gifts is another way to reduce the size of your taxable estate, especially if combined with a spouse. For example, in 2024, an individual can gift up to $18,000 (or $36,000 for married couples) to an unlimited number of people without having to file a gift tax return or reducing their lifetime exemption amount. However, be aware that making gifts can have unintended consequences, such as affecting your eligibility for Medicaid, so consult with your estate planning attorney before taking action. Worth noting is that the IRS has issued guidance that lifetime gifts that are more than the (potentially) future lower exemption amount will not be subject to a "clawback." That should make it easy for many high-net-worth individuals and couples to rest easy about leveraging aggressive gifting strategies.

Those with estates below the current exemption amount but which may become taxable if the TCJA sunsets (taxable estate of between $10 million to $20 million) would be wise to discuss their options with their wealth advisors, including implementing gifting programs or their wealth transfer techniques.

Finally, If you previously used all of your exemptions, know that it has increased an additional $690,000 per person from 2023 to 2024. So, be sure to explore every opportunity to use all of the exemption you currently have available to you.

Special Needs Planning

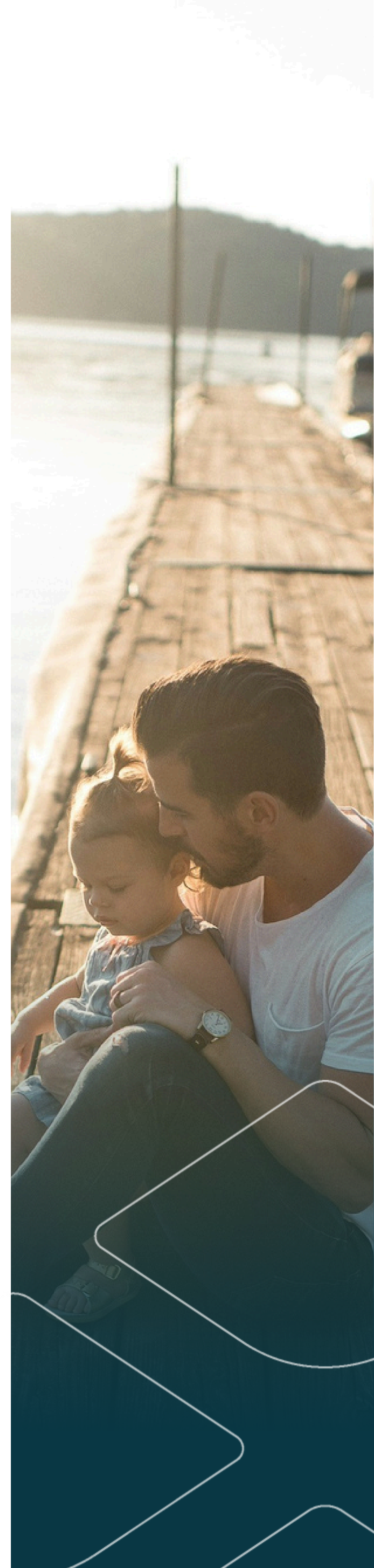
For families of those with special needs, the looming TCJA sunset presents some very specific considerations, particularly for Achieving a Better Life Experience (ABLE) accounts, which are tax-advantaged savings accounts that allow contributions to meet the qualified disability expenses of the account owner or designated beneficiary.

Generally, an ABLE account cannot receive contributions in excess of the annual gift tax exemption, which is $18,000 in 2024. However, under the TCJA, a designated beneficiary who is employed can contribute an additional amount to their ABLE account (above the annual gift-tax exclusion amount). The additional amount is equal to the lesser of the applicable federal poverty level for a one-person household in the prior year, or the beneficiary's compensation for the year. However, if the TCJA sunsets, designated beneficiaries cannot make the additional contributions. So, it may be best to make those additional contributions now.

Currently, designated beneficiaries who make qualified contributions to their ABLE accounts can also qualify for a nonrefundable saver's credit of up to $1,000. However, if the TCJA expires, ABLE account beneficiaries cannot claim the saver's credit for their contributions.

Once again, it may be wise to maximize contributions now so that you can claim the saver's credit before it's (potentially) gone.

In addition, rollovers from a 529 account to an ABLE account (plus any other contributions to the account for the year) that are less than or equal to the annual ABLE contribution limit are currently not subject to income tax. But, you guessed it, all rollovers from 529 accounts to ABLE accounts will be subject to tax if the TCJA sunsets.



Conclusion

In summary, the expiration of the TCJA could result in higher tax burdens for both individuals and businesses, necessitating careful planning and adjustments in financial strategies to mitigate the potential impact. The time is now to connect with your financial advisor to review your financial situation so that you can be best prepared.

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