

Tax Cuts and Jobs Act: Key Provisions Expiring

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The future of key tax provisions from the 2017 Tax Cuts and Jobs Act remains uncertain.

Robert Powell: The Tax Cuts and Jobs Act was enacted in 2017 and was scheduled to sunset after 2025, but who knows in the wake of the federal election. Here to talk with me about this is Noah Harden, the National Wealth Planning Manager at Comerica Wealth Management. Noah, welcome.

Noah Harden: Thanks, Bob. Really happy to be here with you.

Powell: I know that you wrote this guidebook before the election, but nonetheless, it's really important for us to talk about the potential expiring tax provisions or not.

Harden: You're right. It's looking like a lot of these expiring tax provisions that came in with the 2017 Tax Cuts and Jobs Act may not be expiring after all. There's a decent chance that the Republicans will want to extend many of these. However, we're in an interesting week right after the election because so far we've seen the Senate and the presidency both go Republican, and we're waiting on the House. If it's a clean sweep and we have a unified government, I think we're going to be able to predict a lot of these things. However, if the Democrats still take the House, then some of these are up in the air a little bit more given the influence they'll have in negotiations.

Powell: All right, so maybe we can take a look at how things stand at the moment in terms of income tax rates. Let's maybe start there.

Harden: Sure. I kind of pool a lot of the Tax Cuts and Jobs Act's provisions that are expiring into a couple of different categories: individual pieces and business pieces. Overall, there are over 30 different provisions scheduled to expire. Let me touch on a few that will affect many people if they were to expire.

The first big one is that the Act reduced the highest marginal income tax rate. Before the act, the high rate was 39.6%. In 2017, that went down to 37%. This reduction was only

through 2025 and is scheduled to sunset at that time. If it's up to the Republicans, I think they've already stated that they want to extend that lower 37% rate. But if Democrats have control of the House, I think there's a decent chance that's a negotiation point.

Powell: Any thoughts about the 22% and 24% brackets by chance? Or do those sort of stay the same?

Harden: I'm not so sure what will happen there. The idea of the Tax Cuts and Jobs Act was to broaden the tax base a little bit but reduce some of the tax rates that a lot of people had to face. At some of those other marginal tax brackets, I could see a similar tactic coming into play. But I think that's one of those things that we'll just kind of have to wait and see and keep an eye on over the coming months.

Powell: And then the other taxes that affect people certainly in the top rates would be the net investment income tax and the Medicare surcharge. Any thoughts about that, whether those stay in place or not?

Harden: I haven't seen, at least from the campaigns, a whole lot of discussion about that. Generally speaking, if you're looking at the Republican agenda, I think they are all for reducing tax and reducing overall government spending. But again, that's going to be one of those things that could be tough if the Democrats have any say in this. These are all going to be negotiation points that could drag on a little bit into 2025, depending on what happens with the House.

Powell: One of the more interesting provisions from my perspective has always been the increased standard deduction, which eliminated, I think, maybe we're down to what 5% of taxpayers now are able to itemize given the increase in the standard deduction. So where are we on there?

Harden: Right. Very few people are really doing that now. With the standard deduction being so high, I think here in 2024 for an individual, it's \$14,600 and for married filing jointly, it's \$29,200. That is scheduled to go down significantly starting in 2026 to \$8,300 for an individual and \$16,600 for married filing jointly. That's pretty significant. If that were to actually happen, quite a few more people would likely itemize.

I think then the point that a lot of people will focus on is how to plan for that. People will certainly be looking at putting off deductible expenses until 2026 or later when they can really use more of those to itemize. But again, I think Trump's campaign and the Republican agenda is really to extend that if they are able to do it. So I would look to most likely see that extended, but it'll be really interesting to see what happens there.

Powell: My other favorite provision was the so-called SALT deduction. What happens there?

Harden: The Tax Cuts and Jobs Act capped the state and local tax deduction at \$10,000 per return. That started in 2018, scheduled to go through 2025, which means in 2026, that cap of \$10,000 deduction will go away. This will increase the amount of state and local tax that can be deducted on people's returns. Particularly for people in higher tax states, I think this will really help people increase the amount that they can deduct on their return for state and local taxes.

Powell: I know we've talked about the estate and gift tax exemption in another video, but maybe just for folks who haven't watched that one yet, give us the highlights there.

Harden: Absolutely. The Tax Cuts and Jobs Act really increased the estate and gift tax exemption significantly. It actually doubled it when this came into effect. Since then, it's increased for inflation a little bit each year. In 2024, it's up to \$13.6 million per person. So a married couple can double that and use that large exemption for their own planning to avoid estate and gift tax.

What's scheduled to happen currently is that provision with the higher exemption amounts is scheduled to sunset January 1st, 2026, and likely be cut in half. Whatever the increased amount is on January 1st, 2026, it will be cut back in half. I think most people have been saying they expect it to be right around \$7 million at that time. This will significantly change the number of taxpayers that could be subject to estate and gift tax.

If that's the case, there's a whole lot of planning to be done in the meantime, particularly focusing on flexible planning in case you need to pivot directions in a short amount of time. Again, that remains to be seen if that will actually happen with Republican power. I think most people would think that's going to get extended or at least stay high in some way. So we'll keep our eyes on it.

Powell: You mentioned business tax provisions that might expire. What are those?

Harden: There are a number of them. I think there are a couple that affect a really large number of people. The first of those is the qualified business income deduction, or QBI deduction. This allows owners of pass-through entities to deduct up to 20% of qualified business income. That came in with the Tax Cuts and Jobs Act and is scheduled to expire also at the end of 2025. This could impact many small business owners. But I think this is another one that could be extended, especially if we have a unified government.

Powell: Yes, you mentioned pass-through entities. So that would be what? Sole proprietors, LLC, subchapter S corporations, partnerships?

Harden: Yes, those as well as partnerships, that's right. So any of those that pass through to a personal income tax return is really what we're talking about there. The 20%

deduction, I think people have gotten used to taking that and have enjoyed it if you're one of the business owners in those categories.

Powell: And you mentioned a second business tax provision that might be expiring, but people use it apparently quite a bit right now.

Harden: Absolutely. This was a huge one. The Tax Cuts and Jobs Act introduced 100% bonus depreciation. That has been phasing out a little bit over time. Starting in 2022, actually through 2026, this one has been phased out about 20% each year. It will be totally phased out by the end of 2026. But that's been a popular one. I've heard less discussion about whether or not that will actually get extended or changed from really just totally being phased out. But it is one that many business owners have used to the fullest extent and has really made a significant impact on their tax liability.

This is in here really for education purposes. People really need to know that this is going away so that they can plan for that as they're planning deductions and timing of some of those expenses. We'll see what happens with that one as well. But I think there's a decent chance, given Republican power, that a lot of these things are not going to expire at least the way that we expected them to.

Powell: We've covered a lot of ground. I think we missed our bears reemphasizing.

Harden: I think those are a lot of the big picture items with the Tax Cuts and Jobs Act, a lot of the provisions that will affect a great number of people if they were to expire. To me, I think it's interesting, this time period right now, right after the election, everybody's still uncertain about some of these things. In the couple of weeks ahead of us, I think we'll learn a lot more and some of this uncertainty will get a lot of clarity. For me, it's exciting to keep an eye on. And once we get a little clarity, I think we'll be able to provide a lot more guidance to a lot more people.

Powell: We are indeed living in exciting times to say the least. I want to thank you for sharing your knowledge and wisdom with our viewers. It's so greatly appreciated. Thank you, Noah.

Harden: Well, thank you, Bob. It's really a pleasure being with you today.
