PRIVATE WEALTH MANAGEMENT

Planning Options Should the Tax Cuts and Jobs Act of 2017 Sunset on December 31, 2025

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Barring an intervening act by Congress, select provisions of the Tax Cuts and Jobs Act (TCJA) of 2017 will expire on December 31, 2025, and revert to their original language. The following summarizes some of the most impactful estate, individual, and pass-through entity provisions that will sunset.

The Estate, Gift, and Generation Skipping Transfer Tax Exemptions

The estate, gift, and generation skipping transfer (GST) tax exemptions determine the amount of assets a person can transfer during their life or upon their passing without having to pay any transfer taxes. Prior to enactment of the TCJA, the estate, gift, and GST exemption was last set in 2011 at $5,000,000 indexed for inflation. The TCJA increased that amount to $10,000,000 indexed for inflation. It now stands at $13,610,000 per person ($27,220,000 per couple) for 2024. If this provision sunsets on December 31, 2025, the exemption amounts will revert back to $5,000,000 indexed for inflation (estimated to be approximately $7,000,000 in 2026). Therefore, the amount a person will be able to transfer tax free during their life or upon their passing will be significantly reduced.

The IRS has clarified that individuals taking advantage of the increased lifetime exemption amounts currently in effect will not be adversely impacted after 2025 when the exemption is scheduled to be reduced. In other words, **individuals are in a “use it or lose it” situation.**

> ***Key Planning Point:*** *Those with a net worth above or close to the reduced exemption amount should consider utilizing their increased exemption prior to its expiration.*

Top Income Tax Bracket

The TCJA reduced the top individual income tax bracket from 39.6% to 37%. For taxpayers who expect to fall into the higher tax bracket in future years, it may be beneficial to accelerate income for the next two years prior to the sunset.

Standard Deduction

The TCJA suspended and/or capped most deductions (see below) and increased the standard deduction in its place (from $6,500 to $12,000 for individual filers and from $13,000 to $24,000 for joint returns in 2018; currently at $14,600 for individuals and $29,200 for joint in 2024.).

For taxpayers whose itemized deductions are close to the increased standard deduction amount, little or no benefit is gained from itemizing deductions each year. In order to maximize the benefit of itemizing deductions, taxpayers should consider adjusting the timing of deductible expenses, i.e. “bunching” them into the same year so that they will exceed the standard deduction.

> ***Key Planning Point:*** *For taxpayers who anticipate being in a higher tax bracket, it may be prudent to defer deductions into those years to offset the higher tax rate.*

State and Local Tax Deduction

Prior to the TCJA, taxpayers could deduct state and local income taxes (SALT) paid from their federal tax return. The TCJA placed a cap on the deduction of up to $10,000. This significantly impacted taxpayers who live in high income tax states. Many such states have created pass-through entity taxes as an alternative in an attempt to help recreate the benefits of the lost deduction. With the expiration of the cap, it is unclear whether states will eliminate the pass-through entity taxes election.

Miscellaneous Itemized Deductions

In hand with the increase of the standard deduction, the TCJA temporarily eliminated most miscellaneous itemized deductions. These expenses were deductible to the extent that they were in excess of 2% of the taxpayer's adjusted gross income. Eliminated deductions that fall in this category are items such as unreimbursed employee expenses, investment fees, tax preparation fees, and hobby expenses.

As previously mentioned, with the expiration of the TCJA, taxpayers may want to consider deferring miscellaneous itemized deduction expenses into 2026, if possible.

IRC Section 199A Qualified Business Income Deduction

While the TCJA permanently reduced the corporate tax rate to 21%, the provision creating §199A affecting pass-through entities' qualified business income deduction was not. The provision provides a deduction of up to 20% of qualified business income. Without §199A, a question arises as to the most tax efficient entity structure. Should this provision expire, business owners may want to reevaluate their options for the most advantageous entity structure.

Planning strategies to maximize tax benefits will vary by situation. With less than two years remaining before the pending expiration, it is important to work with your Regions Wealth Advisor to understand your options.

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