





What's new on Capitol Hill

Nov. 8, 2023

With you today



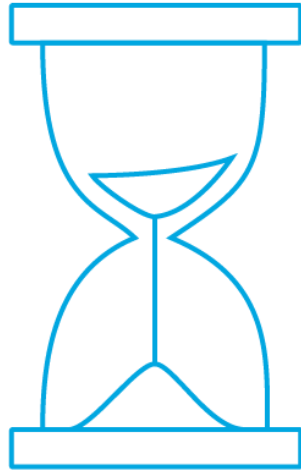
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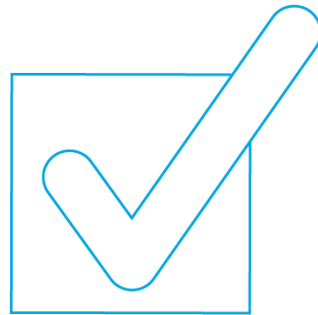


- Capitol Hill tax policy update
 - Key areas of tax legislative focus for the remainder of 2023, 2024, and 2025
 - 2025: TCJA expiring provisions
- Congress and IRS funding
 - Enforcement initiatives
- What we're hearing – industry conversations

Learning objectives

By the end of this presentation, participants will be able to:

1. Have an understanding of the potential tax legislative landscape for 2023, 2024 and beyond
2. Gain an appreciation of the potential implications that the 2024 elections could have on the future direction of tax policy
3. Better understand key IRS enforcement initiatives, tax administration and the impact of Capitol Hill proposals to reduce the IRS additional funding in the Inflation Reduction Act



Capitol hill tax policy update

Key areas of tax legislative focus for the remainder of 2023, 2024, and 2025

Key areas of tax legislative focus for the remainder of 2023

The primary focus:

Restore immediate expensing for R&D

Restore EBITDA instead of EBIT for 30% business interest deduction limitation

Restore immediate expensing for capital equipment

SALT deduction

versus

Child tax credit enhancement





- Under TCJA, taxpayers must capitalize and amortize ALL of their research and experimentation (R&E) expenses paid or incurred after Dec. 31, 2021
 - In prior years taxpayers were permitted to fully deduct R&E expenses in the year they were incurred
 - Currently, R&E expenses are amortized over five years for research conducted within the United States and 15 years for research conducted outside of the United States
- R&E expenses are broadly defined and include the development of software

TCJA changes to section 163(j)



- TCJA limited interest deductions of certain taxpayers to 30% of EBITDA
- Starting in 2022, TCJA further limited the deduction for certain taxpayers to 30% of EBIT
 - Depreciation and amortization no longer increase the deductible amount
- Certain farming and real estate businesses may consider making a one-time irrevocable election to opt out of the section 163(j) limitation
- Certain businesses are eligible for a “small business exception” to section 163(j) that is determined annually



- TCJA provided for full and immediate expensing of capital equipment investments from 2018 through 2022
- Starting in 2023, immediate expensing phases down by 20% per year
 - 2023 – 80%
 - 2024 – 60%
 - 2025 – 40%
 - 2026 – 20%



TCJA limited the deduction for all state and local taxes for individual taxpayers to \$10,000 a year

Key areas of tax legislative focus for 2024

The primary focus

Whatever didn't get done in 2023 and not much else

Other areas of focus

OECD

IRS funding and performance

TCJA expiring provisions

Key areas of tax legislative focus for 2025



TCJA



OECD

Capitol hill tax policy update

2025: TCJA expiring provisions

TCJA: the headlines

- 35 of 124 TCJA provisions **expire** at the end of 2025
- In addition, some TCJA provisions have deferred effective dates and were slated to become effective in later years
- Some key international tax provisions that were enacted into law but contained deferred effective dates as to applicable rate percentages are:
 - GILTI
 - BEAT
 - FDII

and these international provisions are a critical part of the OECD debate

TCJA expiring provisions: individuals

- **Rates:** Modification of individual income tax rates
- **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
- **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 expiring tax provisions: individuals (continued)

- **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

Increase in
estate and
gift tax
exemption

Qualified
business
income
deduction of
20%
(Section
199A)

TCJA expiring provisions: corporate

- **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**

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

TCJA expiring provisions: other business provisions

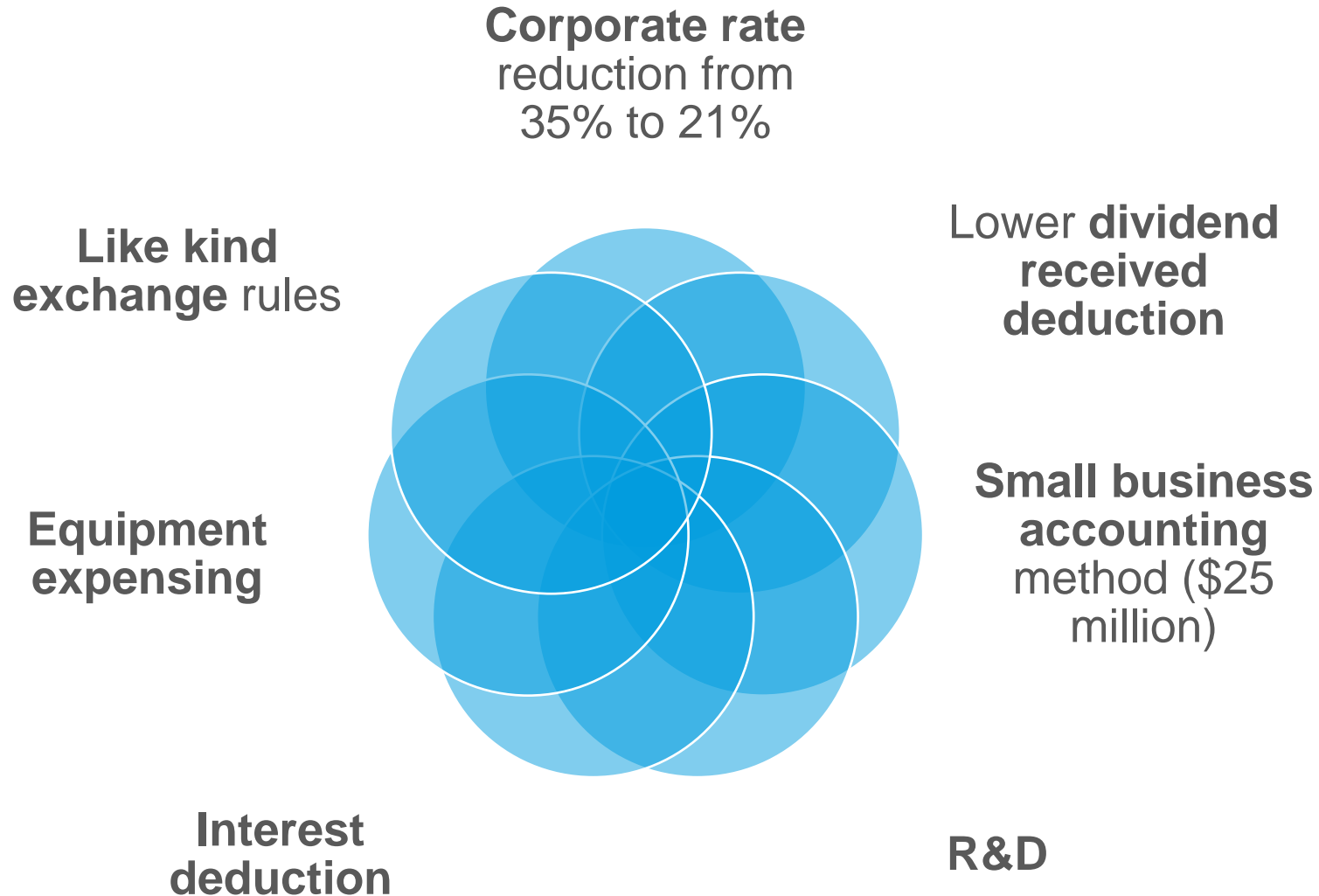
Oil Spill Liability
Trust Fund
financing rate

Seven-year
recovery period for
motorsports
entertainment
complexes

Special expensing
rules for certain
film, television, and
live theatrical
productions

TCJA: what does *not* expire?

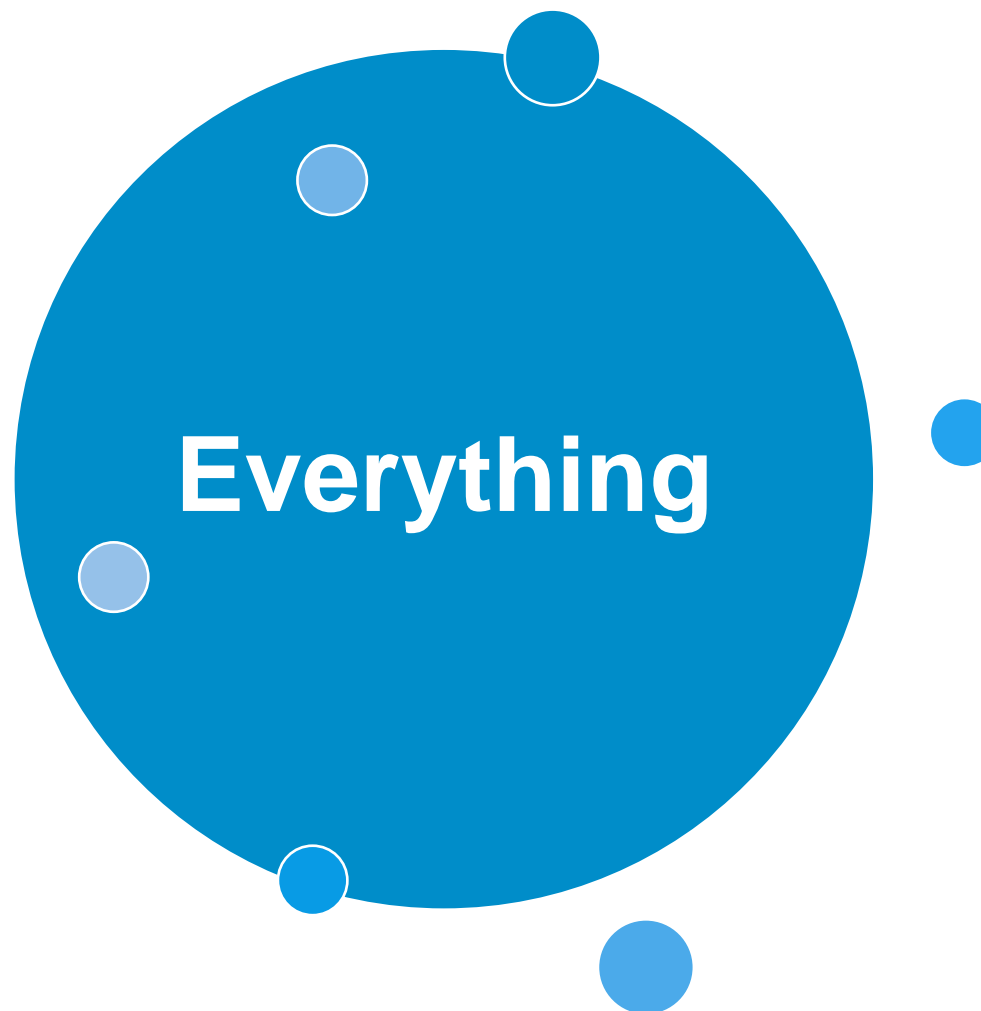
Key provisions:



TCJA: what is on the table ?



TCJA: what is on the table ?





What happens in 2025?



It all depends on the 2024 election

Congress and IRS funding

Enforcement initiatives

What about the IRS and its new funding under the IRA?

- Announced areas of increased audit focus
 - **High income taxpayers with outstanding balances due**
 - September: 1600 taxpayers with income > \$1 million and balance due > \$250,000
 - **High income taxpayers without a balance due**
 - **Digital assets** – John Doe summons to digital asset brokers – 75% non-compliance rate
 - **FBAR violations** – using multi-year filing patterns to identify violations
 - **“Labor brokers”** – payments to shell companies – Texas and Florida

What about the IRS and its new funding under the IRA? (cont'd)

Areas of increased audit focus

Partnerships

- Formation of new partnership audit group in Large Business & International Division
- September: Commence **audits** on 75 partnerships including (1) hedge funds, (2) real estate investment partnerships, (3) publicly traded partnerships, (4) large law firms, (5) “other industries”. These partnerships have average assets of > \$10 billion
- October: Mail “**compliance letters**” to 500 partnerships with > \$10 million in assets where beginning assets on balance sheet do not equal ending assets on prior year balance sheet
- **Large corporations**
- **Employee Retention Tax Credit**
 - Suspension of new submissions
 - Review of submissions received
 - Criminal cases

Will the IRS keep its new \$80 billion funding under the IRA?



Action so far:

1. \$20 billion to be rescinded under the Debt Limit agreement earlier this year
2. \$1.4 billion reduction in IRS budget for FY 23

What
is
next?

What we're hearing – tax legislation



What we're hearing – IRS Administration and Enforcement



With you today



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THANK YOU FOR
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