

CLIENT ALERT

One Big Beautiful Bill: Proposed Tax Changes Clear House and Proceed to Senate



MAY 23, 2025

On Thursday, May 22, 2025, Republicans in the House of Representatives passed the One Big Beautiful Bill Act (the Act), advancing proposed changes to the tax law that could significantly impact individuals and businesses. The Act extends several flagship provisions of the 2017 Tax Cuts and Jobs Act (TCJA) and reflects certain campaign promises made by President Trump. In doing so, the Act raises excise taxes on certain tax-exempt organizations, eliminates many of the clean energy tax credits first introduced by the 2022 Inflation Reduction Act, and provides for a \$4 trillion increase on the national debt limit.^[1] Despite prior indications to the contrary, the Act does not address the treatment of carried interest. The Congressional Budget Office estimates that the cumulative effect of the Act's changes to the tax law will result in an increase to the federal deficit of approximately \$3.8 trillion. The Act now heads to the Senate for consideration.

I. PROPOSALS AFFECTING INDIVIDUALS.

Freezing Marginal Tax Rates. The Act makes permanent the reduced marginal U.S. federal income tax rates introduced by the TCJA, which capped the top marginal personal income tax rate at 37 percent.^[2]

Extending and Easing Restrictions on State and Local Tax Deductibility. The TCJA imposed a \$10,000 cap on itemized deductions of individual taxpayers for state and local taxes (\$5,000 for married taxpayers filing separately) (the SALT Cap), which cap is currently scheduled to expire for taxable years beginning after December 31, 2025. The Act would permanently extend the SALT Cap, increasing it to \$40,400 for individual taxpayers (\$20,200 for a married taxpayer filing separately), but phasing it down to \$10,000 (\$5,000 for a married taxpayer filing separately) for taxpayers with modified adjusted gross income in excess of \$505,000 (\$252,500 for a married taxpayer filing separately).^[3]

Ending Pass-Through Deductions or Credits of State and Local Taxes. The Act would eliminate the ability of individual partners or S corporation shareholders to utilize state law workarounds to the SALT Cap for any partnership or S corporation engaged in a "specified service trade or business."^[4] A specified service trade or business would generally be a trade or business whose principal asset is the reputation or skill of one or more employees or owners, such as medicine, finance, investment management, athletics, law or accounting (but typically not real estate).^[5] In addition, the Act seems to eliminate the ability for partners or shareholders in such businesses

to deduct taxes historically imposed directly on partnerships or S corporations,^[6] for example, sales taxes or the New York City unincorporated business tax.

Expanding Deductibility of Qualified Business Income. The Act would make permanent the deduction for a taxpayer's "qualified business income amount" under Section ^[7]199A, and for tax years beginning after December 31, 2025, would increase the deduction percentage from 20 percent to 23 percent.^[8]

Narrowing Itemized Deductions and Repealing the Personal Exemption. The Act would remove the current limitation on itemized deductions (which phases down the value of such deductions for taxpayers with taxable income in excess of certain thresholds) and replace it with a provision, applicable only to taxpayers in the highest marginal individual income tax bracket (37 percent), reducing the value of itemized deductions by certain rates.^[9] The Act would also permanently eliminate the ability to claim miscellaneous itemized deductions (for example, management fees), which ability was suspended under the TCJA, as well as the personal exemption.^[10]

Addressing Tips, Overtime, and Car Loan Interest. The Act proposes above-the-line deductions for qualified tips earned by individuals in certain professions, certain overtime pay, and up to \$10,000 of interest on qualifying passenger vehicle loans, in each case provided the taxpayer's adjusted gross income does not exceed certain thresholds.^[11]

Permanently Expanding Estate and Gift Tax Exemption Amounts. The increased estate and lifetime gift tax exemption, which is currently set to expire after December 31, 2025, would be permanently extended, and the basic exclusion amount would be increased from \$5 million to \$15 million.^[12]

Restricting Deductibility of Excess Business Losses. The TCJA restricted the ability of noncorporate taxpayers to deduct "excess business losses" (generally, losses attributable to the trade or business of a taxpayer that exceed certain income thresholds) for taxable years beginning before January 1, 2029, and after December 31, 2024. The Act would make such restrictions permanent and allow disallowed excess business losses to be carried forward to subsequent taxable years.^[13]

II. PROPOSALS AFFECTING BUSINESSES

Extending Bonus Depreciation. The TCJA permits taxpayers to immediately expense a percentage of the cost of certain qualified property, which percentage phases down at a rate of 20 percentage points per year from 100 percent for property placed in service after September 27, 2017, and before January 1, 2023, to 20 percent for property placed into service after December 31, 2025, and before January 1, 2027. The Act would eliminate the current phase-out and permit taxpayers to immediately expense 100 percent of the cost of certain qualified property (which includes most equipment and machinery) acquired and placed in service on or after January 20, 2025, and before January 1, 2030.^[14]

Expensing of Domestic Research and Experimental (R&E) Expenditures. The TCJA ended the ability of taxpayers to deduct domestic R&E expenditures in the taxable year in which such expenses were incurred, instead requiring taxpayers to amortize such expenses over a five- or fifteen-year period, depending on the nature of the expenditure. With respect to certain domestic expenditures incurred in tax years beginning after December 31, 2024, and before January 1, 2030, the Act would restore the ability of taxpayers to immediately expense such costs. Foreign R&E expenditures would be required to be amortized over a fifteen-year period.^[15]

Relaxing Limitations on Business Interest Expense Deductions. The TCJA limited the ability of taxpayers to deduct business interest expense, with such limitation being determined in part with reference to a taxpayer's "adjusted taxable income." The TCJA allowed taxpayers to compute their adjusted taxable income without reference to depreciation and amortization deductions for taxable years before 2022 but requires that such deductions be factored into the computation of adjusted taxable income for taxable years beginning in 2022, further restricting a taxpayer's ability to deduct business interest expense in such later years. The Act would revert to the pre-2022 method of calculating adjusted taxable income for taxable years beginning after December 31, 2024, and before January 1, 2030.^[16]

Freezing Deduction for Global Intangible Low-Taxed Income (GILTI) for Foreign-Derived Intangible Income (FDII).

The TCJA enacted Section 250, which generally allows corporate taxpayers to deduct 50 percent of their annual GILTI inclusion and 37.5 percent of their annual FDII inclusion, with such percentages decreasing to 37.5 percent and 21.875 percent, respectively, for taxable years beginning after December 31, 2025. The Act would lower slightly the current rates and make the rates of 49.2 percent (GILTI) and 36.5 percent (FDII) permanent.^[17]

Freezing Base Erosion and Anti-Abuse Tax Rates. Under the TCJA, corporations with annual gross receipts and base erosion payments in excess of certain thresholds are subject to a 10 percent minimum tax, increasing to 12.5 percent for taxable years beginning after December 31, 2025. The Act would freeze the rate at 10.1 percent.^[18]

Retaliating Against Unfair Foreign Taxes. The Act would add Section 899 to the Code, which would permit increases to statutory rates for certain income, withholding (including FDAP and FIRPTA) and excise taxes applicable to residents of “discriminatory foreign countries” that are deemed to have imposed “unfair foreign taxes” on U.S. persons or foreign entities owned thereby. The term “unfair foreign tax” includes an undertaxed profits rule (such as that imposed by the OECD’s Pillar 2), digital services tax, diverted profits tax, and, to the extent provided by the Secretary, an “extraterritorial” or “discriminatory” tax, or any other tax enacted with a purpose indicating that it will be economically borne disproportionately by U.S. persons. Section 899 would generally permit annual increases in applicable statutory rates in 5 percent increments up to a maximum increase of 20 percent. The Secretary would have discretion regarding the application of these rules and authority to issue regulations and guidance regarding how such rules will be implemented.^[19]

Heightened Scrutiny of the Employee Retention Tax Credits (ERTC). The Act would increase the penalty for aiding and abetting the understatement of a tax liability by an ERTC promoter. It would also impose additional diligence requirements with respect to a taxpayer’s eligibility for (or the amount of) the ERTC.^[20]

Revised Charitable Deduction Limitations. Section 170 generally permits corporate taxpayers to deduct charitable contributions up to an amount that does not exceed 10 percent of the taxpayer’s taxable income. The Act would require that the aggregate of such contributions exceed 1 percent of the taxpayer’s taxable income before such a deduction would be permitted and permit charitable contributions in excess of the 10 percent ceiling to be carried forward for five taxable years.^[21]

Extended Qualified Opportunity Zone Program. To encourage investment in economically distressed communities, the TCJA introduced a program pursuant to which investors can defer (in some cases permanently) capital gains and qualified Section 1231 gains that are reinvested before January 1, 2027, in certain property used in a trade or business located in such communities. The Act extends the investment period through December 31, 2033, and permits the designation of new zones, but narrows eligibility requirements for such designations.^[22]

Revised Statutory Language Regarding Treatment of Payments From Partnerships to Partners. Section 707(a)(2) currently provides that “under regulations prescribed by the Secretary,” certain transactions between a partner and a partnership will be treated as transactions occurring between the partnership and a person that is not a partner, with the effect of treating certain distributions as guaranteed payments or taxable sales of property. While certain final regulations have been prescribed, other regulations remain in proposed form and the Treasury has reserved for comments on the treatment of certain types of transactions, including those that would be treated as a disguised sale of partnership interests. The Act would revise such language so that Section 707(a)(2) would apply “except as provided” by the Secretary, removing the need for such regulations to be finalized.^[23]

Revised Taxable REIT Subsidiary Asset Test. Under Section 856, no more than 20 percent of the value of the assets of a real estate investment trust may consist of securities of one or more taxable REIT subsidiaries. The Act would increase such percentage from 20 percent to 25 percent.^[24]

III. PROPOSALS AFFECTING CERTAIN TAX-EXEMPT ENTITIES

Increased Excise Tax on Investment Income of Certain Private Colleges and Universities. Under Section 4968, applicable educational institutions are subject to a 1.4 percent tax on their net investment income for the taxable year. The Act would increase the rate of tax imposed on certain private colleges and universities based on the

institution's student-adjusted endowment, up to a rate of 21 percent for institutions with student-adjusted endowments of \$2 million or greater.^[25]

Increased Tax on Net Investment Income of Certain Private Foundations. All private foundations exempt from tax under Section 501(a) are subject to an excise tax of 1.39 percent of their net investment income for the taxable year. The Act would increase the rate of tax imposed on such foundations based on the size of the foundation (measured with respect to the value of the foundation's assets), up to a rate of 10 percent for foundations with assets of \$5 billion or more.^[26]

IV. PROPOSALS AFFECTING CERTAIN CLEAN ENERGY TAX CREDITS.

The Act accelerates the expiration of certain clean energy tax credits enacted by the 2022 Inflation Reduction Act and phases out others.

The Act would accelerate the expiration of certain credits to December 31, 2025, including but not limited to credits in respect of certain (i) previously owned clean vehicles under Section 25E,^[27] (ii) new vehicles under Section 30D,^[28] (iii) commercial clean vehicles under Section 45W,^[29] (iv) alternative fuel refueling properties under Section 30C,^[30] (v) household energy efficient improvements under Section 25C,^[31] and (vi) residential clean expenditures under Section 25D (e.g., qualified solar electric property, and qualified small wind energy property).^[32]

The Act would phase out or eliminate the availability of certain other credits, including but not limited to (i) the clean electricity production credit under Section 45Y,^[33] (ii) the clean electricity investment credit under Section 48E,^[34] and (iii) the zero emission nuclear power production credit under Section 45U.^[35] The Act would also place certain restrictions on the involvement of and materials from certain foreign entities in certain credit projects. In some cases, the Act may significantly reduce the availability of these credits going forward. The Act would also narrow the availability of other energy-related tax credits.^[36]

V. MISCELLANEOUS PROPOSALS

Relaxing Certain IRS Form 1099 Reporting Requirements. Under Section 6050W, third party settlement organizations (e.g., Venmo and PayPal) are required to issue IRS Forms 1099-K to payees in respect of third-party network transactions if the amount to be reported exceeds \$600. The Act would increase the dollar threshold for such reporting obligation to \$20,000 and the number of transactions required to trigger such reporting obligation from 1 to 200.^[37]

We are closely tracking the movement of the Act through Congress. Please reach out to any member of the Winston Tax team with questions, including the authors below.

[1] Act, § 113001, at .pdf page 1082 (Committee Print).

[2] Act, § 110001, at .pdf page 706 (Committee Print).

[3] Act, § 112018, at .pdf pages 967–977 (Committee Print), as amended by H. Rept. 119-113, at .pdf page 34–35.

[4] Act, § 112018, at .pdf pages 967–977 (Committee Print).

[5] IRC § 199A(d)(2).

[6] Act, § 112018, at .pdf pages 971–973 (referencing “Substitute Payments”).

[7] The term “Section” refers to a section of the Internal Revenue Code of 1986, as amended.

[8] Act, § 110005, at .pdf pages 712–715 (Committee Print).

[9] Act, § 110011, at .pdf pages 718–719 (Committee Print), as amended by H. Rept. 119-113, at .pdf page 19.

[10] Act, § 110010, at .pdf page 708 (Committee Print).

[11] Act, §§ 110101, at .pdf pages 727–736 (Committee Print); 110102, at .pdf pages 736–742; and 110104, at .pdf page 742–752 (Committee Print) (for tips, overtime, and car loan interest, respectively).

[12] Act, § 110006, at .pdf page 716 (Committee Print).

[13] Act, § 112027, at .pdf pages 1003–1005 (Committee Print).

[14] Act, § 111001, at .pdf pages 847–851 (Committee Print).

[15] Act, § 111002, at .pdf pages 851–860 (Committee Print).

[16] Act, § 111003, at .pdf page 861 (Committee Print).

[17] Act, § 111004, at .pdf page 862 (Committee Print), as amended by H. Rep. 119-113.

[18] Act, § 111005, at .pdf pages 862–863 (Committee Print), as amended by H. Rep. 119-113 at .pdf page 21.

[19] Act, § 112028, at .pdf pages 1006–1024 (Committee Print).

[20] Act, § 112205, at .pdf pages 1056–1068 (Committee Print).

[21] Act, § 112027, at .pdf pages 1003–1005 (Committee Print).

[22] Act, § 111102, at .pdf pages 870–877 and 878–896 (Committee Print) (addressing expansion and reporting, respectively).

[23] H. Rep. 119-113, at .pdf pages 40–41.

[24] Act, § 111113, at .pdf page 922 (Committee Print).

[25] Act, § 112021, at .pdf pages 987–995 (Committee Print).

[26] Act, § 112022, at .pdf pages 995–997 (Committee Print).

[27] Act, § 112001, at .pdf page 929 (Committee Print).

[28] Act, § 112002, at .pdf pages 929–931 (Committee Print).

[29] Act, § 112003, at .pdf page 931 (Committee Print).

[30] Act, § 112004, at .pdf page 932 (Committee Print).

[31] Act, § 112005, at .pdf pages 932–933 (Committee Print).

[32] Act, § 112006, at .pdf page 933 (Committee Print).

[33] Act, § 112008, at .pdf pages 934–945 (Committee Print).

[34] Act, § 112009, at .pdf pages 945–952 (Committee Print).

[35] Act, § 112012, at .pdf pages 954–956 (Committee Print).

[36] E.g., Act, § 112010, at .pdf page 952 (Committee Print) (clean fuel production credit)

[37] Act, § 111104, at .pdf pages 897–900 (Committee Print).

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