

**LIST OF EXPIRING FEDERAL TAX PROVISIONS  
2004-2014**

Prepared by the Staff  
of the  
JOINT COMMITTEE ON TAXATION



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## CONTENTS

	<u>Page</u>
INTRODUCTION .....	1
EXPIRING FEDERAL TAX PROVISIONS, 2004-2014.....	2
A. Provisions Expiring in 2004.....	2
B. Provisions Expiring in 2005.....	3
C. Provisions Expiring in 2006.....	7
D. Provisions Expiring in 2007.....	10
E. Provisions Expiring in 2008.....	11
F. Provisions Expiring in 2009.....	12
G. Provisions Expiring in 2010.....	14
H. Provisions Expiring in 2013.....	15
I. Provisions Expiring in 2014.....	16

## INTRODUCTION

This document,<sup>1</sup> prepared by the staff of the Joint Committee on Taxation, provides a listing of tax provisions (other than those providing time-limited transition relief after the repeal of an underlying rule) that are currently scheduled to expire in 2004-2014 (with references to the applicable section of the Internal Revenue Code of 1986 or other applicable law). For purposes of compiling this list, the staff of the Joint Committee on Taxation considers a provision to be expiring if, at some statutorily specified date in the future, the provision expires completely or reverts to the law in effect before the present-law version of the provision.

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<sup>1</sup> This document may be cited as follows: Joint Committee on Taxation, *List of Expiring Federal Tax Provisions, 2004-2014* (JCX-71-04), December 23, 2004.

## EXPIRING FEDERAL TAX PROVISIONS, 2004-2014

### A. Provisions Expiring in 2004

Provision (Code section) <sup>2</sup>	Expiration Date
1. Additional first-year depreciation allowance for qualifying property (sec. 168(k)(2)(A)(iv))	12/31/04 <sup>3</sup>
2. Enterprise communities designated in 1994 (sec. 1391(d)(1)(A)(ii))	12/31/04 <sup>4</sup>

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<sup>2</sup> All references are to the Internal Revenue Code of 1986, as amended, unless otherwise indicated.

<sup>3</sup> An extension of the placed in service date of one year is provided for certain property with a recovery period of 10 years or longer, certain transportation property, and certain aircraft.

<sup>4</sup> The provision may expire earlier with respect to an enterprise community if a State or local government provided for an expiration date in the nomination of an enterprise community or the appropriate Secretary revokes an enterprise community's designation.

## B. Provisions Expiring in 2005

Provision (Code section)	Expiration Date
1. Leaking underground storage tank trust fund excise tax (sec. 4081(d)(3))	3/31/05
2. Election to defer portion of net experience loss charges of certain multiemployer defined benefit pension plans ((sec. 412(b)(7)(F)) <sup>5</sup>	6/30/05
3. Highway trust fund excise tax rates:	
a. All but 4.3 cents per gallon of the taxes on highway gasoline, diesel fuel, kerosene, and special motor fuels (secs. 4041(a) and 4081(d)(1)) <sup>6</sup>	9/30/05
b. Reduced rate of tax on partially exempt methanol or ethanol fuel (sec. 4041(m)) <sup>7</sup>	9/30/05
c. Tax on retail sale of heavy highway vehicles (sec. 4051(c))	9/30/05
d. Tax on heavy truck tires (sec. 4071(d))	9/30/05
e. Annual use tax on heavy highway vehicles (sec. 4481(f))	9/30/05
4. Election to make reduced required contributions to certain defined benefit pension plans (sec. 412(l)(12)) <sup>8</sup>	12/27/05

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<sup>5</sup> A corresponding provision is contained in section 302(b)(7)(F) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). This provision also expires in 2005.

<sup>6</sup> The 4.3-cents-per-gallon rate is permanent. Gasoline and special motor fuels used in motorboats, and gasoline for the nonbusiness use of small engine outdoor power equipment, are first deposited in the highway trust fund and then transferred to the aquatic resources trust fund. However, the same September 30, 2005, expiration date applies.

<sup>7</sup> After September 30, 2005, in the case of fuel none of the alcohol in which consists of ethanol, the rate is 2.15 cents-per-gallon. In any other case the rate is 4.3 cents-per-gallon.

<b>Provision (Code section)</b>	<b>Expiration Date</b>
5. Personal tax credits allowed against regular tax and alternative minimum tax (“AMT”) (sec. 26(a)(2)) <sup>9</sup>	12/31/05
6. Election to include combat pay as earned income for purposes of earned income credit (sec. 32(c)(2)(B)(vi))	12/31/05
7. Tax credit for research and experimentation expenses (sec. 41(h))	12/31/05
8. Placed-in-service date for eligibility for tax credit for electricity production from wind, closed-loop biomass, open-loop biomass, geothermal or solar energy, small irrigation power, or municipal solid waste (sec. 45(d)(1)-(7))	12/31/05
9. Indian employment tax credit (sec. 45A(f))	12/31/05
10. Work opportunity tax credit (sec. 51(c)(4))	12/31/05
11. Welfare-to-work tax credit (sec. 51A(f))	12/31/05
12. Increased AMT exemption amount (sec. 55(d)(1))	12/31/05
13. Deduction for certain expenses of elementary and secondary school teachers (sec. 62(a)(2)(D))	12/31/05
14. Deduction of State and local general sales taxes (sec. 164(b)(5))	12/31/05

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<sup>8</sup> A corresponding provision is contained in section 302(d)(12) of ERISA. This provision also expires in 2005.

<sup>9</sup> The Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. No. 107-16, June 7, 2001) (“EGTRRA”) made this provision permanent with respect to the child tax credit and the adoption credit. The provisions of EGTRRA generally sunset after 2010; *see* Part G., below.

<b>Provision (Code section)</b>	<b>Expiration Date</b>
15. 15-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements (sec. 168(e)(3)(E)(iv) and (v))	12/31/05
16. Accelerated depreciation for business property on an Indian reservation (sec. 168(j)(8))	12/31/05
17. Enhanced deduction for corporate contributions of computer equipment for educational purposes (sec. 170(e)(6)(G))	12/31/05
18. Expensing of “brownfields” environmental remediation costs (sec. 198(h))	12/31/05
19. Archer medical savings accounts (“MSAs”) (sec. 220(i))	12/31/05
20. Above-the-line deduction for qualified tuition and related expenses (sec. 222(e))	12/31/05
21. Interest rate used in determining the current liability of defined benefit pension plans (secs. 404(a)(1)(F), 412(b)(5)(B)(ii)(II) and (l)(7)(C)(i)(IV)) <sup>10</sup>	12/31/05
22. Interest rate used in applying the dollar limit on benefits under a defined benefit pension plan to certain forms of benefit (sec. 415(b)(2)(E)(ii))	12/31/05
23. Suspension of 100 percent-of-net-income limitation on percentage depletion for oil and gas from marginal wells (sec. 613A(c)(6)(H))	12/31/05

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<sup>10</sup> Provisions corresponding to Code section 412(b)(5)(B)(ii)(II) and (l)(7)(C)(i)(IV) are contained in ERISA section 302(b)(5)(B)(ii)(II) and (d)(7)(C)(i)(IV). ERISA section 4006(a)(3)(E)(iii)(V) also contains a corresponding provision relating to Pension Benefit Guaranty Corporation premiums. These provisions also expire in 2005.

<b>Provision (Code section)</b>	<b>Expiration Date</b>
24. Qualified zone academy bonds – allocations of bond authority (sec. 1397E(e)(1))	12/31/05
25. Tax incentives for investment in the District of Columbia:	
a. Designation of D.C. enterprise zone; employment tax credit; additional expensing (sec. 1400(f)(1))	12/31/05
b. Tax-exempt D.C. empowerment zone bonds (sec. 1400A(b))	12/31/05
c. Zero-percent capital gains rate for investment in D.C. for gains through 12/31/08 (sec. 1400B(b)(2), (3)(A), (4)(A)(i), and (4)(B)(i)(I))	12/31/05
d. Tax credit for first-time D.C. homebuyers (sec. 1400C(i))	12/31/05
26. New York Liberty Zone: advance refunding of certain tax-exempt bonds (sec. 1400L(e)(1))	12/31/05
27. Disclosure of tax information to facilitate combined employment tax reporting (sec. 6103(d)(5))	12/31/05
28. Disclosure of return information to inform officials of terrorist activities (sec. 6103(i)(3)(C)(iv))	12/31/05
29. Disclosure upon request of information relating to terrorist activities (sec. 6103(i)(7)(E))	12/31/05
30. Disclosure of return information to carry out income contingent repayment of student loans (sec. 6103(l)(13)(D))	12/31/05
31. Authority for undercover operations (sec. 7608(c)(6))	12/31/05

<b>Provision (Code section)</b>	<b>Expiration Date</b>
32. Temporary increase in limit on cover over of rum excise tax revenues (from \$10.50 to \$13.25 per proof gallon) to Puerto Rico and the Virgin Islands (sec. 7652(f))	12/31/05
33. Joint Committee on Taxation annual report and annual joint hearings on IRS strategic plans (secs. 8021(f)(2) and 8022(3)(C))	6/1/05 & 12/31/05
34. Tax on failure to comply with mental health parity requirements applicable to group health plans (sec. 9812(f)) <sup>11</sup>	12/31/05
35. Special funding rules for defined benefit pension plans in the interstate bus industry <sup>12</sup>	12/31/05

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<sup>11</sup> Corresponding provisions are contained in ERISA and the Public Health Service Act. These provisions expire on December 31, 2005.

<sup>12</sup> These provisions are contained in section 769(c)(3) of the Retirement Protection Act of 1997, as added by section 201(a) of the Pension Funding Equity Act of 2004, and apply for purposes of Code section 412(l)(9)(A) and (m) and ERISA sections 302(d)(9)(A) and (e) and 4006(a)(3)(E)(iii).

### C. Provisions Expiring in 2006

Provision (Code section)	Expiration Date
1. Incentives to reinvest foreign earnings in the United States (sec. 965(f))	10/20/06 <sup>13</sup>
2. Credit for elective deferrals and individual retirement arrangement (“IRA”) contributions (sec. 25B(h))	12/31/06
3. Tax credit for qualified electric vehicles (sec. 30(e))	12/31/06 <sup>14</sup>
4. Incentives for biodiesel:	
a. Income tax credits for biodiesel fuel and biodiesel used to produce a qualified mixture (sec. 40A(e))	12/31/06
b. Biodiesel mixture excise tax credit and outlay payments (secs. 6426(c)(6), 6427(e)(3)(B), and 9503)	12/31/06
5. Deduction for clean-fuel vehicles and refueling property (sec. 179A(f))	12/31/06 <sup>15</sup>
6. Special depreciation rule for certain clean-fuel passenger automobiles (sec. 280F(a)(1)(C)(iii))	12/31/06
7. Special rule for sales or dispositions to implement FERC or State electric restructuring policy (sec. 451(i)(3))	12/31/06

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<sup>13</sup> The expiration date is the close of the first taxable year beginning on or after October 22, 2004. The last possible such date is October 20, 2006.

<sup>14</sup> The credit is reduced by 75 percent for vehicles placed in service after December 31, 2005. No credit is available after 2006.

<sup>15</sup> The deduction is reduced by 75 percent for clean-fuel vehicles placed in service after December 31, 2005. No deduction is allowed for clean-fuel vehicles or refueling property after 2006.

<b>Provision (Code section)</b>	<b>Expiration Date</b>
8. Treatment of certain income of electric cooperatives (sec. 501(c)(12)(C) and (H)(x))	12/31/06
9. Two-year suspension of rules taxing certain distributions from the policyholder surplus account of a life insurance company (sec. 815(g))	12/31/06
10. Exceptions under subpart F for active financing income (secs. 953(e)(10) and 954(h)(9))	12/31/06
11. New York Liberty Zone: special depreciation allowance (sec. 1400L(b)(2)(v))	12/31/06 <sup>16</sup>
12. New York Liberty Zone: five-year recovery period for depreciation of certain leasehold improvements (sec. 1400L(c)(2)(B))	12/31/06
13. New York Liberty Zone: increase in expensing under section 179 (sec. 1400L(f) and (b)(2)(A))	12/31/06 <sup>17</sup>
14. New York Liberty Zone: extension of replacement period for nonrecognition of gain (sec. 1400L(g))	12/31/06
15. Excise tax on diesel fuel used in trains and fuels used in barges operating on the designated inland waterways system (secs. 4041(a)(1)(C)(ii) and 4042(b)(2)(C))	12/31/06 <sup>18</sup>

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<sup>16</sup> In the case of nonresidential real property or residential rental property, the expiration date is December 31, 2009.

<sup>17</sup> In the case of nonresidential real property or residential rental property, the expiration date is December 31, 2009.

<sup>18</sup> The tax is reduced by one cent per gallon from January 1 through June 30, 2005 and by two cents per gallon from July 31 through December 31, 2006.

### D. Provisions Expiring in 2007

Provision (Code section)	Expiration Date
1. Airport and airway trust fund excise taxes:	
a. All but 4.3 cents per gallon of taxes on noncommercial aviation gasoline (sec. 4081(d)(2)(B)) <sup>19</sup>	9/30/07
b. Domestic and international air passenger ticket taxes (sec. 4261(i)(1)(A)(ii))	9/30/07
c. Air cargo tax (sec. 4271(d)(1)(A)(ii))	9/30/07
2. New markets tax credit (sec. 45D(f))	12/31/07 <sup>20</sup>
3. 50-percent tax credit for certain expenditures for maintaining railroad tracks (sec. 45G(f))	12/31/07
4. Seven-year recovery period for motorsports entertainment complexes (sec. 168(i)(15)(D))	12/31/07
5. Increase in expensing (sec. 179(b)(1) and (2), (c)(2), and (d)(1)(A)(ii))	12/31/07
6. Treatment of certain dividends of regulated investment companies (secs. 871(k)(1)(C) and (2)(C), 881(e)(1)(A) and (2), and 897(h)(4)(A)(ii))	12/31/07
7. FUTA surtax of 0.2 percent (sec. 3301(1))	12/31/07

<sup>19</sup> The 4.3-cents-per-gallon rate is permanent.

<sup>20</sup> The new markets tax credit limitation is reduced to zero on January 1, 2008.

### E. Provisions Expiring in 2008

Provision (Code section)	Expiration Date
1. Suspension of occupational taxes relating to distilled spirits, wine, and beer (sec. 5148(b))	6/30/08
2. Disclosure of tax return information for administration of certain veterans programs (sec. 6103(l)(7)(D)(viii))	9/30/08
3. Reduced capital gain rates (sec. 1(h)) <sup>21</sup>	12/31/08
4. Dividends taxed at capital gain rates (sec. 1(h)) <sup>22</sup>	12/31/08
5. Placed-in-service date for eligibility for tax credit for refined coal (sec. 45(d)(8))	12/31/08
6. Special expensing rules for certain film and television productions (sec. 181(f))	12/31/08

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<sup>21</sup> The expiration date is contained in section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Pub. L. No. 108-27, May 28, 2003) (“JGTRRA”).

<sup>22</sup> The expiration date is contained in section 303 of JGTRRA.

## F. Provisions Expiring in 2009

Provision (Code section)	Expiration Date
1. Qualified green buildings and sustainable design project bonds (sec. 142(l)(8))	9/30/09
2. Credit for small refiners for production of diesel fuel in compliance with EPA sulfur regulations for small refiners (sec. 45H(c)(4))	12/31/09
3. Expensing of capital costs incurred by small refiners for production of diesel fuel in compliance with EPA sulfur regulations for small refiners (sec. 179B(a))	12/31/09
4. Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business taxable income (sec. 512(b)(18)(K))	12/31/09
5. Empowerment zone tax incentives: <sup>23</sup>	
a. Increased exclusion of gain (attributable to periods before 1/1/15) on the sale of qualified business stock of an empowerment zone business (secs. 1202(a)(2)(C) and 1391(d)(1)(A)(i))	12/31/09
b. Empowerment zone tax-exempt bonds (secs. 1394 and 1391(d)(1)(A)(i))	12/31/09
c. Empowerment zone employment credit (secs. 1396 and 1391(d)(1)(A)(i))	12/31/09
d. Increased expensing under sec. 179 (secs. 1397A and 1391(d)(1)(A)(i))	12/31/09
e. Nonrecognition of gain on rollover of empowerment zone investments (secs. 1397B and 1391(d)(1)(A)(i))	12/31/09

<sup>23</sup> The empowerment zone tax incentives may expire earlier than December 31, 2009 with respect to an empowerment zone if a State or local government provided for an expiration

<b>Provision (Code section)</b>	<b>Expiration Date</b>
6. Renewal community tax incentives:	
a. Zero-percent capital gains rate for investment in renewal communities for gains through 12/31/14 (sec. 1400F(b)(2)(A)(i), (3)(A), and (4)(A)(i))	12/31/09
b. Employment credit (secs. 1400H and 1391(d)(1)(A)(i))	12/31/09
c. Commercial revitalization deduction (sec. 1400I(g))	12/31/09
d. Increased expensing under sec. 179 (sec. 1400J(b)(1)(A))	12/31/09
7. New York Liberty Zone: tax exempt bond financing (sec. 1400L(d)(2)(D))	12/31/09

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date in the nomination of an empowerment zone or the appropriate Secretary revokes an empowerment zone's designation.

## G. Provisions Expiring in 2010

Provision (Code section)	Expiration Date
1. Provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 <sup>24</sup>	12/31/10
2. Alcohol fuels income tax credit (sec. 40(e)(1)(A), (h)(1), and (h)(2))	12/31/10 <sup>25</sup>
3. Alcohol fuel mixture excise tax credit and outlay payments (secs. 6426(b)(5), 6427(e)(3)(A), and 9053)	12/31/10

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<sup>24</sup> The sunset applies to all provisions otherwise in effect on the expiration date. Public Law 107-358 repealed the sunset contained in EGTRRA with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime. Title I of JGTRRA accelerated the EGTRRA changes relating to the increase in the child tax credit, marriage penalty relief, and reductions in individual income tax rates. JGTRRA provides that the sunset provision of EGTRRA applies to the changes the same as the sunset applies to the EGTRRA provisions to which the changes relate. Title I of the Working Families Tax Relief Act of 2004 (“WFTRA”) accelerated the increase in the refundability of the child tax credit and repeals the scheduled reductions in the child tax credit, marriage penalty relief, and 10-percent rate bracket. WFTRA provides that these amendments are subject to the sunset provision of EGTRRA to the same extent as the provisions of EGTRRA to which the amendments relate.

<sup>25</sup> The income tax credit expires earlier if the tax rate on gasoline and other motor fuels drops to 4.3 cents per gallon, which is currently scheduled to occur after September 30, 2005, unless the Highway Trust Fund tax rates are extended beyond that date.

## H. Provisions Expiring in 2013

<b>Provision (Code section)</b>	<b>Expiration Date</b>
1. Transfer of excess pension assets to retiree health accounts (sec. 420(b)(5))	12/31/13

## I. Provisions Expiring in 2014

Provision (Code section)	Expiration Date
1. IRS user fees for a letter ruling, determination letter, opinion letter or other similar ruling or determination (sec. 7528(c))	9/30/14