

**LIST OF EXPIRING FEDERAL TAX PROVISIONS
2022-2034**

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



January 18, 2023
JCX-1-23

CONTENTS

	<u>Page</u>
INTRODUCTION	1
A. Provisions Expired in 2022	2
B. Provisions Expiring in 2023.....	3
C. Provisions Expiring in 2024.....	4
D. Provisions Expiring in 2025.....	7
E. Provisions Expiring in 2026.....	12
F. Provisions Expiring in 2027.....	13
G. Provisions Expiring in 2028.....	14
H. Provisions Expiring in 2029.....	15
I. Provisions Expiring in 2030.....	16
J. Provisions Expiring in 2031.....	17
K. Provisions Expiring in 2032.....	18
L. Provisions Expiring in 2034.....	20

INTRODUCTION

This document,¹ prepared by the staff of the Joint Committee on Taxation, lists Federal tax provisions that expired in 2022 or are scheduled to expire in the future. Years in which there are no expiring provisions are not included.

For purposes of this document, the staff of the Joint Committee on Taxation considers a provision to be expiring if, on a statutorily specified date, the provision terminates or reverts to the law in effect before the current version of the provision.

When Congress changes a law, an accompanying rule may provide temporary transition relief. For example, a change in law may not apply to transactions pursuant to a written binding contract entered into before a given date. While its terms may provide a kind of temporal limitation, such a rule is not considered an expiring provision. Similarly, a deferred effective date alone generally is not sufficient to make a provision an expiring provision.

Certain provisions terminate by reference not to a specific date but to a taxpayer's taxable year. For those provisions, the expiration dates listed in this document assume a taxpayer with a calendar year. For that reason, the actual expiration dates of such provisions may differ with respect to a fiscal-year taxpayer or a taxpayer with a short taxable year.

Unless otherwise stated, all section references are to the Internal Revenue Code of 1986 (the "Code").

¹ This document may be cited as follows: Joint Committee on Taxation, *List of Expiring Federal Tax Provisions 2022-2034* (JCX-1-23), January 18, 2023. This document can be found on the Joint Committee on Taxation website at www.jct.gov.

A. Provisions Expired in 2022

Provision (Code section)	Expiration Date
1. Railroad track maintenance credit (expiration of 50-percent rate) (sec. 45G(a)) ²	12/31/22
2. Allowance of full deduction for business meals provided by a restaurant (sec. 274(n)(2)(D)) ³	12/31/22
3. Special rule for health and dependent care flexible spending arrangements (sec. 214 of Division EE of Public Law 116-260)	12/31/22
4. Temporary delay of designation of multiemployer plans as in endangered, critical, or critical and declining status (sec. 9701 of Public Law 117-2) ⁴	12/31/22

² In the case of any taxable year beginning after December 31, 2022, the rate is 40 percent.

³ Amounts paid or incurred after December 31, 2022, are subject to a 50-percent disallowance.

⁴ The provision applies to the first plan year beginning during the period beginning March 1, 2020, and ending February 28, 2021, or the next succeeding plan year (as elected by the plan sponsor).

B. Provisions Expiring in 2023

Provision (Code section)	Expiration Date
1. Airport and Airway Trust Fund excise taxes:	
a. All tax rates (except for the permanent 4.3-cents-per-gallon rate) on noncommercial aviation kerosene and noncommercial aviation gasoline (secs. 4081(d)(2)(B) and 4083(b))	9/30/23
b. Domestic and international air passenger ticket taxes and ticket tax exemption for aircraft in fractional ownership aircraft programs (sec. 4261(k) and (j))	9/30/23
c. Air cargo tax (sec. 4271(d))	9/30/23
d. Surtax on fuel used in aircraft in a fractional ownership program (sec. 4043(d))	9/30/23

C. Provisions Expiring in 2024

Provision (Code section)	Expiration Date
1. Second generation biofuel producer credit (sec. 40(b)(6)(J))	12/31/24
2. Incentives for biodiesel and renewable diesel:	
a. Income tax credits for biodiesel fuel, biodiesel used to produce a qualified mixture, and small agri-biodiesel producers (sec. 40A(g))	12/31/24
b. Income tax credits for renewable diesel fuel and renewable diesel used to produce a qualified mixture (sec. 40A(g))	12/31/24
c. Excise tax credits and outlay payments for biodiesel fuel mixtures (secs. 6426(c)(6) and 6427(e)(6)(B))	12/31/24
d. Excise tax credits and outlay payments for renewable diesel fuel mixtures (secs. 6426(c)(6) and 6427(e)(6)(B))	12/31/24
3. Incentives for sustainable aviation fuel:	
a. Credit for sustainable aviation fuel (sec. 40B(h))	12/31/24
b. Excise tax credits and outlay payments for sustainable aviation fuel (sec. 6426(k) and 6427(e)(6)(B))	12/31/24

Provision (Code section)	Expiration Date
4. Beginning-of-construction date for renewable power facilities eligible to claim the renewable electricity production credit or investment credit in lieu of the production credit (secs. 45(d) and 48(a)(5)) ⁵	12/31/24
5. Beginning-of-construction date for increased credit for business solar energy property and credit for fiber optic solar lighting system property, qualified fuel cell and stationary microturbine power plant property, combined heat and power property, small wind property, and waste energy recovery property (sec. 48(a)(2)(A)(i)(II), (a)(3)(A)(ii), (a)(3)(A)(viii), (c)(1)(E), (c)(2)(D), (c)(3)(A)(iv), and (c)(4)(C))	12/31/24
6. Increase in energy credit for solar and wind facilities placed in service in connection with low-income communities (sec. 48(e)(4)(C))	12/31/24
7. Five-year recovery period for certain energy property (secs. 168(e)(3)(B)(vi)(I) and 48(a)(3)(A)) ⁶	12/31/24
8. Safe harbor for absence of deductible for telehealth (sec. 223(c)(2)(E)) ⁷	12/31/24

⁵ December 31, 2025, in the case of investment credits for offshore wind facilities.

⁶ December 31, 2034, in the case of equipment using the ground or ground water as a thermal energy source (or sink) to heat (or cool) a structure.

⁷ The provision applies to months beginning after March 31, 2022, and before January 1, 2023, and plan years beginning after December 31, 2022, and before January 1, 2025.

Provision (Code section)	Expiration Date
9. Incentives for alternative fuel and alternative fuel mixtures:	
a. Excise tax credits and outlay payments for alternative fuel (secs. 6426(d)(5) and 6427(e)(6)(C))	12/31/24
b. Excise tax credits for alternative fuel mixtures (sec. 6426(e)(3))	12/31/24

D. Provisions Expiring in 2025

Provision (Code section)	Expiration Date
1. Modification of individual income tax rates (sec. 1(j))	12/31/25
2. Child tax credit: Increased credit amount, increased refundable amount, reduced earned income threshold, and modification of identification requirements (sec. 24(h))	12/31/25
3. Premium assistance credit enhancements (sec. 36B(b)(3)(A)(iii) and (c)(1)(E))	12/31/25
4. New markets tax credit (sec. 45D(f)(1)) ⁸	12/31/25
5. Employer credit for paid family and medical leave (sec. 45S(i))	12/31/25
6. Work opportunity credit (sec. 51(c)(4))	12/31/25
7. Increase in exemption amount and phaseout threshold of individual AMT (sec. 55)	12/31/25
8. Rate on modified taxable income and treatment of credits in the calculation of base erosion minimum tax amount (sec. 59A(b)(2))	12/31/25
9. Increase in standard deduction of individuals (sec. 63(c)(7))	12/31/25
10. Suspension of miscellaneous itemized deduction (sec. 67(g))	12/31/25

⁸ Subject to a carryover. No amount may be carried to any calendar year after 2030. Sec. 45D(f)(3).

Provision (Code section)	Expiration Date
11. Suspension of limitation on itemized deductions (sec. 68(f))	12/31/25
12. Exclusion from gross income of discharge of indebtedness on principal residence (sec. 108(a)(1)(E))	12/31/25
13. Special rule for certain discharges of student loans (sec. 108(f)(5))	12/31/25
14. Exclusion for certain employer payments of student loans (sec. 127(c)(1)(B))	12/31/25
15. Suspension of exclusion for reimbursement of bicycle commuting (sec. 132(f)(8))	12/31/25
16. Suspension of exclusion for moving expense reimbursement (sec. 132(g)(2))	12/31/25
17. Suspension of deduction for personal exemptions (sec. 151(d)(5))	12/31/25
18. Limitation on deduction for qualified residence interest, suspension of deduction for home equity interest (sec. 163(h)(3)(F))	12/31/25
19. Limitation on deduction for State, local, etc., taxes (sec. 164(b)(6))	12/31/25
20. Personal casualty losses limited to Federally declared disaster areas (sec. 165(h)(5))	12/31/25

Provision (Code section)	Expiration Date
21. Modification of rules relating to computation of wagering losses (sec. 165(d))	12/31/25
22. Seven-year recovery period for motorsports entertainment complexes (sec. 168(e)(3)(C)(ii) and (i)(15)(D))	12/31/25
23. Increase in percentage limitation on cash contributions to public charities (sec. 170(b)(1)(G))	12/31/25
24. Special expensing rules for certain film, television, and live theatrical productions (sec. 181(g)) ⁹	12/31/25
25. Qualified business income deduction (sec. 199A(i))	12/31/25
26. Suspension of deduction for moving expenses (sec. 217(k))	12/31/25
27. Deduction percentages for foreign-derived intangible income and global intangible low-taxed income (sec. 250(a)(3))	12/31/25
28. Deductibility of employer <i>de minimis</i> meals and related eating facility, and meals for the convenience of the employer (sec. 274(o))	12/31/25

⁹ Qualified film, television, and live theatrical productions (as defined in section 181(d) and (e)) are eligible for the additional first-year depreciation allowance under section 168(k) if (1) acquired and placed in service after September 27, 2017, and before January 1, 2027, and (2) a deduction otherwise would have been allowable under section 181 without regard to the dollar limitation or termination of that section. See sec. 168(k)(2)(A)(i)(IV) and (V).

Provision (Code section)	Expiration Date
29. Transfer of excess pension assets to retiree health and life insurance accounts (sec. 420(b)(4))	12/31/25
30. ABLÉ accounts (sec. 529A):	
a. Contributions eligible for saver’s credit (sec. 25B(d)(1)(D))	12/31/25
b. Rollovers from qualified tuition programs permitted (sec. 529(c)(3)(C)(i)(III))	12/31/25
c. Increase in contributions limit (sec. 529A(b)(2)(B))	12/31/25
31. Look-through treatment of payments between related controlled foreign corporations under the foreign personal holding company rules (sec. 954(c)(6)(C))	12/31/25
32. Empowerment zone tax incentives: ¹⁰	
a. Designation of an empowerment zone and of additional empowerment zones (sec. 1391(d)(1)(A)(i) and (h)(2))	12/31/25
b. Empowerment zone tax-exempt bonds (secs. 1394 and 1391(d)(1)(A)(i))	12/31/25
c. Empowerment zone employment credit (secs. 1396 and 1391(d)(1)(A)(i))	12/31/25
33. Increase in estate and gift tax exemption (sec. 2010(c)(3)(C))	12/31/25
34. Oil Spill Liability Trust Fund financing rate (sec. 4611(f)(2))	12/31/25

¹⁰ The empowerment zone tax incentives may expire before December 31, 2025, if a State or local government provides for an earlier termination date.

Provision (Code section)	Expiration Date
35. Treatment of certain individuals performing services in the Sinai Peninsula of Egypt (sec. 11026 of Public Law 115-97)	12/31/25

E. Provisions Expiring in 2026

Provision (Code section)	Expiration Date
1. Elective deferrals and IRA contributions by certain individuals (sec. 25B)	12/31/26
2. Credit for advanced manufacturing investment (sec. 48D(e))	12/31/26
3. Additional first-year depreciation with respect to qualified property (secs. 168(k)(2)(A)(iii) and 460(c)(6)(B)) ¹¹	12/31/26
4. Election of additional depreciation for certain plants bearing fruits and nuts (sec. 168(k)(5)(A)) ¹²	12/31/26
5. Election to invest capital gains in an opportunity zone (sec. 1400Z-2(a)(2)(B))	12/31/26

¹¹ Subject to a phasedown in 2023-2026. December 31, 2027, for certain longer-lived and transportation property (subject to a phasedown in 2024-2027). Sec. 168(k)(2)(B)(i)(II) and (6)(A) and (B).

¹² Subject to a phasedown in 2023-2026. Sec. 168(k)(6)(C).

F. Provisions Expiring in 2027

Provision (Code section)	Expiration Date
1. Credit for clean fuel production (sec. 45Z(g))	12/31/27
2. Expensing of certain costs of replanting citrus plants lost by reason of casualty (sec. 263A(d)(2)(C)(ii))	12/22/27

G. Provisions Expiring in 2028

Provision (Code section)	Expiration Date
1. Limitation on excess business losses of noncorporate taxpayers (sec. 461(l))	12/31/28
2. Highway Trust Fund excise taxes: ¹³	
a. All tax rates (except for the permanent 4.3-cents-per-gallon rate) on highway gasoline, diesel fuel, kerosene, and alternative fuels (secs. 4041(a) and 4081(d)(1))	9/30/28
b. Reduced tax rate on partially exempt methanol or ethanol fuel (sec. 4041(m)) ¹⁴	9/30/28
c. Tax on retail sale of heavy highway vehicles (sec. 4051(c))	9/30/28
d. Tax on heavy truck tires (sec. 4071(d))	9/30/28
3. Leaking Underground Storage Tank Trust Fund financing rate (secs. 4041(d)(4), 4042(b)(4), and 4081(d)(3))	9/30/28

¹³ The Highway Trust Fund excise tax rates relating to the annual use tax on heavy highway vehicles (sec. 4481(f)) expire September 30, 2029.

¹⁴ After September 30, 2028, 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.

H. Provisions Expiring in 2029

Provision (Code section)	Expiration Date
1. Specified health insurance policy fee (sec. 4375(e))	9/30/29
2. Self-insured health plan fee (sec. 4376(e))	9/30/29
3. Highway Trust Fund excise taxes: ¹⁵ Annual use tax on heavy highway vehicles (sec. 4481(f))	9/30/29

¹⁵ Other Highway Trust Fund excise tax rates expire September 30, 2028.

I. Provisions Expiring in 2030

Provision (Code section)	Expiration Date
1. Special financial assistance program for financially troubled multiemployer plans (sec. 9704 of Public Law 117-2) ¹⁶	9/30/30

¹⁶ To be eligible, plans must meet certain conditions no later than the plan year beginning in 2022.

J. Provisions Expiring in 2031

Provision (Code section)	Expiration Date
1. Superfund excise taxes on certain chemicals and imported substances (secs. 4661(c) and 4671(e))	12/31/31

K. Provisions Expiring in 2032

Provision (Code section)	Expiration Date
1. Credit for energy efficient home improvements (sec. 25C(h))	12/31/32
2. Credit for previously-owned clean vehicles (sec. 25E(f))	12/31/32
3. Credit for alternative fuel vehicle refueling property (sec. 30C(i))	12/31/32
4. Credit for clean vehicles (sec. 30D(h))	12/31/32
5. Credit for construction of new energy efficient homes (sec. 45L(g))	12/31/32
6. Beginning-of-construction date for certain qualified carbon oxide sequestration facilities (sec. 45Q(d)(1))	12/31/32
7. Credit for zero-emission nuclear power production (sec. 45U)	12/31/32
8. Credit for qualified commercial clean vehicles (sec. 45W(g))	12/31/32
9. Credit for advanced manufacturing production (sec. 45X(b)(3))	12/31/32
10. Credit for clean electricity production (sec. 45Y(d)) ¹⁷	12/31/32

¹⁷ The clean electricity production credit expires on the later of (1) the calendar year in which the Secretary of the Treasury determines that the annual greenhouse gas emissions from the production of electricity in the United States are equal to or less than 25 percent of the annual greenhouse gas emissions from the production of electricity in the United States for calendar year 2022, or (2) 2032. Sec. 45Y(d)(3).

Provision (Code section)	Expiration Date
11. Credit for clean electricity investment (sec. 48E(e)) ¹⁸	12/31/32
12. Election for treating certain credit amounts for energy property and electricity produced from certain renewable resources as payments (sec. 6417(d)(1)(E))	12/31/32

¹⁸ The clean electricity investment credit expires on the later of (1) the calendar year in which the Secretary of the Treasury determines that the annual greenhouse gas emissions from the production of electricity in the United States are equal to or less than 25 percent of the annual greenhouse gas emissions from the production of electricity in the United States for calendar year 2022, or (2) 2032. Sec. 48E(e)(3).

L. Provisions Expiring in 2034

Provision (Code section)	Expiration Date
1. Credit for residential clean energy (sec. 25D(h))	12/31/34
2. Beginning-of-construction date for increased credit for geothermal heat pump property (sec. 48(a)(3)(A)(vii))	12/31/34