Deloitte.

Tax News & Views
Capitol Hill briefing.
May 10, 2024

Updated CBO estimate pegs 10-year cost of TCJA extensions at $4.6 trillion

In a development that ramped up a debate among congressional taxwriters and foreshadows the tough decisions facing lawmakers next year, the nonpartisan Congressional Budget Office (CBO) estimated in a new report released May 8 that the 10-year cost of permanently extending all the temporary provisions in the Tax Cuts and Jobs Act (TCJA, P.L. 115-97) that are scheduled to expire at the end of 2025 would be $4.6 trillion, up $1.1 trillion from projections the agency issued in 2023.
URL: https://www.cbo.gov/publication/60114
URL: https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf

By the numbers

According to the report, which was undertaken at the request of Senate Finance Committee Chairman Ron Wyden, D-Ore., and Senate Budget Committee Chairman Sheldon Whitehouse, D-R.I., permanent extensions of the expiring pieces of the TCJA would increase the federal deficit by a combined $3.97 trillion from 2025 through 2034 and increase net interest outlays by a combined $605 billion over the same period.

The bulk of the cost—$3.7 trillion, including interest—comes from the individual income tax provisions, such as statutory rate cuts, an enhanced child tax credit, and the 199A deduction for passthrough business owners. Extensions of higher estate and gift tax exemption amounts would add another $189 billion to the 10-year tally (including interest), and a return to 100 percent bonus depreciation would cost an additional $469 billion (including interest).

While most provisions impacting corporate taxpayers were made permanent in the TCJA, there are a handful of international tax provisions scheduled to change after 2025. The 10 percent rate of the base erosion and anti-abuse tax (BEAT) is set to increase to 12.5 percent; the deduction for global intangible low-taxed income (GILTI) is due to fall from 50 percent to 37.5 percent; and the deduction for foreign derived intangible income (FDII) is scheduled to fall from 37.5 percent to 21.875 percent. Permanently extending the current rules for those three tax regimes would add $172 billion to the deficit over 10 years, plus $25 billion in net interest, CBO said.

Policy debate kicking into high gear

Since the TCJA was approved by a Republican-controlled House and Senate in 2017, Democrats have argued that the bill was skewed towards big businesses and the nation's wealthiest households while adding significantly to the federal debt. Republicans have countered that the legislation boosted economic growth, federal tax revenues, real median household income, and wages.

The House Ways and Means Democratic press office highlighted the new CBO estimate in a statement following the report's release, saying the 2017 bill "didn't raise workers' wages, help small businesses, or grow our economy." The statement emphasized that Democrats would ensure Congress does not raise taxes on households earning less than $400,000—echoing President Biden's longtime promise—while charging that

Copyright © 2024 Deloitte Development LLC
All rights reserved.

Republicans are “plotting a sequel to their 2017 Trump Tax Scam cuts for their wealthy and well-connected friends.”

Finance Committee Chairman Wyden had a similar reaction, saying, “Republicans have planned all along on making Trump’s tax handouts to the rich permanent, but they hid the true cost with timing gimmicks and a 2025 deadline that threatens the middle class with an automatic tax hike if they don’t get what they want.”

House Republicans responded to the report by casting doubt on the accuracy of CBO’s scoring and highlighting metrics they said show that the “Trump tax cuts were a boon for America’s economy and working families.”

“While the Congressional Budget Office provides a valuable service to the Congress, its track record in predicting the economic and fiscal outcome of the 2017 Trump tax cuts is poor to say the least,” said Ways and Means Chair Jason Smith, R-Mo., and Budget Committee Chair Jody Arrington, R-Texas, in a statement, adding that “tax revenues reached a record high of nearly $5 trillion, and revenues averaged $205 billion above CBO predictions for the four years following implementation of the law.”

Smith: Some GOP lawmakers open to corporate rate hike

Regardless of the exact figure, lawmakers in both parties know that there will be a significant cost to extending TCJA provisions. In the past, Republicans have typically argued that extensions of current law should not require revenue offsets—and over time some Democrats have come to agree. But the growing federal deficit is a concern for many members of Congress on both sides of the aisle. And with federal debt held by the public now approaching 100 percent of gross domestic product, warning cries from deficit hawks in both parties have begun to grow louder.

Against that backdrop, Ways and Means Committee Chairman Smith said this week that some in his party believe they may not be able to extend all of the TCJA cuts or might have to consider raising the corporate income tax rate to help pay for them.

In remarks at a May 8 legislative seminar hosted by the law firm BakerHostetler, Smith said that some members of the GOP are open to raising the corporate tax rate—which was reduced to 21 percent in the TCJA from 35 percent under prior law—both because revenue will be needed to offset TCJA extensions and because “there’s people on both sides of the aisle that believe the corporate tax rate is not enough.”

“One of the biggest challenges that will be discussed, debated, and decided in 2025 is should taxes be paid for, or should they not be paid for when you’re looking at spending [and the] budget . . . because of the fiscal crisis,” Smith said.

The issue of revenue offsets for tax-law extensions already arose this year in the context of bipartisan legislation passed by the House in January. The Tax Relief for American Families and Workers Act (H.R. 7024), which Smith negotiated over the course of several months with Finance Committee Chairman Ron Wyden, would retroactively reverse through 2025 three business-unfriendly tax provisions in the TCJA (related to the

Copyright © 2024 Deloitte Development LLC
All rights reserved.

treatment of research expenditures, bonus depreciation, and the deduction for business interest expenses) and temporarily enhance the child tax credit and the low-income housing tax credit. That bill was essentially revenue neutral as a result of provisions that would tighten rules around the pandemic-era employee retention tax credit. Although the measure cleared the House in January by a wide bipartisan margin, it remains stuck in the Senate, where some GOP lawmakers have voiced objections to various facets of the package, including the proposed pay-for, arguing, among other things, that offsetting extensions of current law would set a risky precedent, particularly in light of the pending expiration of the TCJA provisions.
URL: https://www.congress.gov/bill/118th-congress/house-bill/7024/text

Commenting on the House-approved bipartisan tax package, Smith told the audience at the BakerHostetler event that there are Republicans who are willing to buck what had been considered GOP orthodoxy on offsets and who regard a corporate tax hike as a viable revenue-raising option.

“Without a doubt, some very well-known conservative members of this conference demanded why in this tax bill we were not raising the corporate tax rate,” Smith said. (See separate coverage in this issue for additional comments from Smith about the current status of the Tax Relief for American Families and Workers Act.)

Looking ahead to the pending expiration of the TCJA provisions, Smith said that while he could think of $2.5 trillion worth of revenue offsets, “that is going to be a huge task to try to pay for $4 trillion worth of taxes.”

The TCJA’s significant cut in the corporate tax rate was a particular point of pride for then-President Donald Trump, who signed the legislation into law in 2017 and is the *de facto* Republican presidential nominee in 2024. Ways and Means Committee Chairman Smith, for his part, said he is not personally advocating for a higher corporate rate.

— Storme Sixeas
Tax Policy Group
Deloitte Tax LLP

Copyright © 2024 Deloitte Development LLC
All rights reserved.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms or their related entities (collectively, the "Deloitte organization") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

About Deloitte
Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms, and their related entities (collectively, the "Deloitte organization"). DTTL (also referred to as "Deloitte Global") and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte's approximately 415,000 people worldwide make an impact that matters at www.deloitte.com.

Copyright © 2024 Deloitte Development LLC
All rights reserved.