

Expired Tax Provisions and "Tax Extenders"

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A number of temporary tax provisions expired at the end of 2016. Although some temporary or expired provisions were addressed in the 2017 tax revision ([P.L. 115-97](#)), most of the provisions that expired in 2016 have not been extended beyond their 2016 expiration date. Some have suggested that a tax extenders bill enacted early in 2018 could retroactively extend expired tax provisions. Alternatively, another policy option is to allow expired tax provisions to remain expired.

Table 1 provides information on expired tax provisions and "tax extenders." Specifically, the table includes (1) all provisions that expired in 2016 and 2017 and were not addressed in the 2017 tax revision ([P.L. 115-97](#)); (2) provisions that would be extended in the Tax Extender Act of 2017 ([S. 2256](#)); and (3) for provisions that were extended for two years, retroactive for 2015 and through 2016, in the Consolidated Appropriations Act, 2016 ([P.L. 114-113](#)), the cost of that extension over the 10-year budget window (fiscal years 2016 through 2025). However, with the enactment of [P.L. 115-97](#), the current law tax baseline has substantively changed. Thus, past cost estimates may not necessarily be indicative of the cost of future extensions.

Table 1. Expired Tax Provisions and "Tax Extenders"

Provision	Year Provision Expired	Would Be Extended in S. 2256 ?	Estimated Cost of Extension in P.L. 114-113 (billions)
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Individual

Discharge of indebtedness on principal residence excluded from gross income	2016	YES	\$5.1
Premiums for mortgage insurance deductible as interest	2016	YES	\$2.3
Deduction for qualified tuition and related expenses	2016	YES	\$0.6

Business

Indian employment credit	2016	Yes	\$0.1
Railroad track maintenance credit	2016	Yes	\$0.4
Mine rescue team training credit	2016	Yes	-i-
Three-year depreciation for race horses two years old or younger	2016	Yes	—
Seven-year recovery period for motorsports entertainment complexes	2016	Yes	\$0.1
Accelerated depreciation for business property on an Indian reservation	2016	Yes	\$0.2
Election to expense advanced mine safety equipment	2016	Yes	—
Special expensing rules for certain film, television, and live theatrical productions ^a	2016	Yes	-i-
Deduction for income attributable to	2016	Yes	\$0.2

domestic production activities in Puerto Rico^b

Special rate for qualified timber gains ^c	2016	Yes	n/a ^d
Empowerment zone tax incentives ^e	2016	Yes	\$0.5
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	2016	Yes	\$0.3
American Samoa economic development credit	2016	Yes	-i-

Energy

Credit for certain nonbusiness energy property	2016	Yes	\$1.3
Credit for residential energy property ^f	2016	Yes	n/a ^g
Credit for qualified fuel cell motor vehicles	2016	Yes	-i-
Credit for alternative fuel vehicle refueling property	2016	Yes	\$0.1
Credit for two-wheeled plug-in electric vehicles	2016	Yes	-i-
Second generation biofuel producer credit	2016	Yes	-i-
Incentives for biodiesel and renewable diesel	2016	Yes	\$2.6

Beginning-of-construction date for non-wind production tax credit (PTC) facilities ^h	2016	Yes	\$1.4
Credit for production of Indian coal	2016	Yes	\$0.1
Credit for construction of new energy efficient homes	2016	Yes	\$0.8
Energy credit for hybrid solar lighting, geothermal heat pump, small wind, combined heat and power (CHP), fuel cell, and microturbine property	2016	Yes	n/a ^g
Five-year cost recovery for certain energy property	2016	No ⁱ	n/a ^g
Special depreciation allowance for second generation biofuel plant property	2016	Yes	-i-
Energy efficient commercial buildings deduction	2016	Yes	\$0.3
Special rule for sales or dispositions to implement Federal Energy Regulatory Commission ("FERC") or State electric restructuring policy	2016	Yes	—
Incentives for alternative fuel and alternative fuel mixtures	2016	Yes	\$0.9
Oil Spill Liability Trust Fund financing rate	2017	Yes	n/a ^g

Source: Joint Committee on Taxation, *List of Expiring Federal Tax Provisions 2016-2027* (JCX-1-18), January 9, 2018; the Tax Extender Act of 2017 ([S. 2256](#)); and Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in 2015* (JCS-1-16), March 14, 2016.

Notes: [S. 2256](#) also includes an extension of Qualified Zone Academy Bond authority. However,

the authority to issue tax-credit bonds, like the Qualified Zone Academy Bonds, was repealed in [P.L. 115-97](#). An "-i-" indicates a cost of less than \$50 million. An "—" indicates no revenue cost.

- a. Film, television, and live theatrical productions are eligible for additional first-year depreciation if placed in service after September 27, 2017, and before January 1, 2027.
- b. The domestic production activities deduction (Section 199) is repealed after 2017.
- c. The special rate for qualified timber gains is provided in Internal Revenue Code Section 1201(b). Section 1201 is repealed after December 31, 2017.
- d. This special rate for corporate timber gains, enacted for one year in [P.L. 114-113](#), had an estimated revenue cost of \$35 million.
- e. Empowerment zone tax incentives include designation of an empowerment zone and of additional empowerment zones; empowerment zone tax-exempt bonds; empowerment zone employment credit; increased expensing under Section 179; and nonrecognition of gain on rollovers of empowerment zone investments.
- f. Tax credits for residential solar energy property are available until December 31, 2021.
- g. The provision had not expired and thus was not extended in [P.L. 114-113](#).
- h. Beginning-of-construction date for wind is December 31, 2019.
- i. [P.L. 115-97](#) generally provides full and immediate expensing of capital investments placed in service after September 27, 2017, and before January 1, 2023 (with the bonus depreciation amount phased down after this date). Public utility property is generally excluded.

In addition to extending expired provisions as noted in [Table 1](#), the Tax Extender Act of 2017 ([S. 2256](#)) proposes to modify the [advanced nuclear production tax credit](#) and expand the [tax credit for carbon dioxide sequestration](#).

Additional background information on extenders generally and descriptions of expired provisions can be found in the following CRS products:

- CRS Report R44677, [Tax Provisions that Expired in 2016 \("Tax Extenders"\)](#), by Molly F. Sherlock;
- CRS Report R44925, [Recently Expired Individual Tax Provisions \("Tax Extenders"\): In Brief](#), coordinated by Molly F. Sherlock;
- CRS Report R44930, [Business Tax Provisions that Expired in 2016 \("Tax Extenders"\)](#), coordinated by Molly F. Sherlock; and
- CRS Report R44990, [Energy Tax Provisions That Expired in 2016 \("Tax Extenders"\)](#), by Molly F. Sherlock, Donald J. Marples, and Margot L. Crandall-Hollick.