

LIST OF EXPIRED AND EXPIRING FEDERAL TAX PROVISIONS

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



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INTRODUCTION

This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a listing of tax provisions that expired in 2003 or are currently scheduled to expire thereafter (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.

¹ This document may be cited as follows: Joint Committee on Taxation, *List of Expired and Expiring Federal Tax Provisions* (JCX-1-04), January 21, 2004.

EXPIRED AND EXPIRING FEDERAL TAX PROVISIONS

A. Provisions That Expired in 2003

Provision (Code section) ²	Expiration Date
1. Personal tax credits allowed against regular tax and alternative minimum tax (“AMT”) (sec. 26(a)(2)) ³	12/31/03
2. Tax credit for electricity production from wind, closed-loop biomass, and poultry waste -- facilities placed in service date (sec. 45(c)(3))	12/31/03
3. Work opportunity tax credit (sec. 51(c)(4))	12/31/03
4. Welfare-to-work tax credit (sec. 51A(f))	12/31/03
5. Deduction for certain expenses of elementary and secondary school teachers (sec. 62(a)(2)(D))	12/31/03
6. Enhanced deduction for corporate contributions of computer equipment for educational purposes (sec. 170(e)(6)(G))	12/31/03
7. Expensing of “brownfields” environmental remediation costs (sec. 198(h))	12/31/03
8. Archer medical savings accounts (“MSAs”) (sec. 220(i))	12/31/03

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

³ 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 H., below.

Provision (Code section)	Expiration Date
9. Interest rate used in determining additional required contributions to defined benefit plans for 2002 and 2003 (sec. 412(l)(7)(C)(i)(III)) ⁴	12/31/03
10. Suspension of 100 percent-of-net-income limitation on percentage depletion for oil and gas from marginal wells (sec. 613A(c)(6)(H))	12/31/03
11. Reduction in certain deductions of mutual life insurance companies -- differential earning rates treated as zero (sec. 809(j))	12/31/03
12. Qualified zone academy bonds -- allocations of bond authority (sec. 1397E(e)(1))	12/31/03
13. 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))	12/31/03
b. Tax-exempt D.C. empowerment zone bonds (sec. 1400A(b))	12/31/03
c. Zero-percent capital gains rate for investment in D.C. for gains through 12/31/08 (secs. 1400B(b)(2), (3)(A), and (4)(A)(i))	12/31/03
d. Tax credit for first-time D.C. homebuyers (sec. 1400C(i))	12/31/03

⁴ A corresponding provision is contained in section 302(d)(7)(C)(i)(III) of the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended. This provision also expired in 2003.

Provision (Code section)	Expiration Date
14. New York Liberty Zone: work opportunity tax credit (“WOTC”) (sec. 1400L(a)(2)(D)(iv)(I))	12/31/03
15. Disclosure of return information to inform officials of terrorist activities (sec. 6103(i)(3)(C)(iv))	12/31/03
16. Disclosure upon request of information relating to terrorist activities (sec. 6103(i)(7)(E))	12/31/03
17. 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))	12/31/03
18. Joint Committee on Taxation annual report and annual joint hearings on IRS strategic plans (secs. 8021(f)(2) and 8022(3)(C))	6/1/03 & 12/31/03
19. Tax on failure to comply with mental health parity requirements applicable to group health plans (sec. 9812(f)) ⁵	12/31/03

⁵ Corresponding provisions are contained in ERISA and the Public Health Service Act. These provisions expire on December 30, 2004. *See* Mental Health Parity Reauthorization Act of 2003 (Pub. L. No. 108-197, December 19, 2003).

B. Provisions Expiring in 2004

Provision (Code section)	Expiration Date
1. Tax credit for research and experimentation expenses (sec. 41(h))	6/30/04
2. End point of 15-percent rate bracket for married taxpayers filing joint returns twice that of end point of 15-percent rate bracket for single taxpayers (sec. 1(f)(8))	12/31/04
3. Increase in income level for end point 10-percent rate bracket to \$14,000 for married taxpayers filing joint returns and \$7,000 for single taxpayers ⁶ (sec. 1(i)(1)(B))	12/31/04
4. Increase in child credit amount to \$1,000 (sec. 24(a)(2))	12/31/04
5. Indian employment tax credit (sec. 45A(f))	12/31/04
6. Increased AMT exemption amount (sec. 55(d)(1))	12/31/04
7. Increase in the basic standard deduction for married taxpayers filing joint returns to twice the standard the basic standard deduction for single filers (sec. 63(c)(7))	12/31/04
8. Accelerated depreciation for business property on an Indian reservation (sec. 168(j)(8))	12/31/04
9. Special depreciation allowance for qualifying property (sec. 168(k)(2)(A)(iv))	12/31/04 ⁷

⁶ These dollar amounts are indexed for inflation for 2004.

⁷ An extension of the placed in service date of one year is provided for certain property with a recovery period of ten years or longer and certain transportation property.

Provision (Code section)	Expiration Date
10. Enterprise communities designated in 1994 (sec. 1391(b)(1)(d))	12/31/04 ⁸
11. New York Liberty Zone: tax exempt bond financing (sec. 1400L(d)(2))	12/31/04
12. New York Liberty Zone: advance refunding of certain tax exempt bonds (sec. 1400L(e)(1))	12/31/04
13. Disclosure of return information to carry out income contingent repayment of student loans (sec. 6103(l)(13)(D)) ⁹	12/31/04
14. IRS user fees for a letter ruling, determination letter, opinion letter or other similar ruling or determination (sec. 7528(c)) ¹⁰	12/31/04

⁸ The provision may expire earlier with respect to an enterprise community if the State and local governments provided for an expiration date in their nomination of an enterprise community, or the appropriate Secretary revokes an enterprise community's designation.

⁹ Public Law 108-89, extended the statutory authorization for this type of disclosure through December 31, 2004 (Pub. L. No. 108-89, October 1, 2003).

¹⁰ Public Law 108-89 extended the statutory authorization for these user fees through December 31, 2004, and moved the statutory authorization for these fees into the Code (including the user fee provision relating to pension plans that was enacted in section 620 of EGTRRA).

C. 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. Aquatic resources trust fund and land and water conservation fund excise tax on motorboat gasoline and special fuels (secs. 4041(a) and 4081(a)(1)) -- all but 4.3 cents per gallon ¹¹	9/30/05
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)) ¹²	9/30/05
b. Tax on retail sale of heavy highway vehicles (sec. 4051(c))	9/30/05
c. Tax on heavy truck tires (sec. 4071(d))	9/30/05
d. Annual use tax on heavy highway vehicles (sec. 4481(e))	9/30/05
4. Partially exempt methanol or ethanol fuel (sec. 4041(m)) ¹³	9/30/05
5. Puerto Rico economic activity tax credit (sec. 30A(h))	12/31/05
6. Increase in expensing (sec. 179(b)(1) and (2))	12/31/05
7. Deduction for qualified tuition and related expenses (sec. 222(e))	12/31/05

¹¹ The 4.3-cents-per-gallon rate is permanent.

¹² The 4.3-cents-per-gallon rate is permanent.

¹³ After September 30, 2005, in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents-per-gallon and in any other case, 4.3 cents-per-gallon.

Provision (Code section)	Expiration Date
8. Transfer of excess pension assets to retiree health accounts (sec. 420(b)(5))	12/31/05
9. Puerto Rico and possession tax credit (sec. 936(j)(3))	12/31/05
10. Authority for undercover operations (sec. 7608(c)(6))	12/31/05

D. Provisions Expiring in 2006

Provision (Code section)	Expiration Date
1. Credit for elective deferrals and individual retirement arrangement ("IRA") contributions (sec. 25B(h))	12/31/06
2. Tax credit for qualified electric vehicles (sec. 30(e))	12/31/06 ¹⁴
3. Deduction for clean-fuel vehicles and refueling property (sec. 179A(f))	12/31/06 ¹⁵
4. Special depreciation rule for certain clean-fuel passenger automobiles (sec. 280F(a)(1)(C)(iii))	12/31/06
5. Exceptions under subpart F for active financing income (secs. 953(e)(10) and 954(h)(9))	12/31/06
6. New York Liberty Zone: special depreciation allowance (sec. 1400L(b)(2)(v))	12/31/06 ¹⁶
7. New York Liberty Zone: five-year recovery period for depreciation of certain leasehold improvements (sec. 1400L(c)(2)(B))	12/31/06

¹⁴ The credit phases down for vehicles placed in service after December 31, 2003. The credit is reduced by 25 percent in 2004, 50 percent in 2005, and 75 percent in 2006. No credit is available after 2006.

¹⁵ The deduction phases down for clean-fuel vehicles placed in service after December 31, 2003. The deduction is reduced by 25 percent in 2004, 50 percent in 2005, and 75 percent in 2006. No deduction is allowed for clean-fuel vehicles or refueling property after 2006.

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

Provision (Code section)	Expiration Date
8. New York Liberty Zone: increase in expensing under section 179 (secs. 1400L(f) and (b)(2)(A))	12/31/06 ¹⁷
9. New York Liberty Zone: extension of replacement period for nonrecognition of gain (sec. 1400L(g))	12/31/06

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

E. 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 jet fuel and noncommercial aviation gasoline (secs. 4041(c), 4081(d), and 4091) ¹⁸	9/30/07
b. Domestic and international air passenger ticket taxes (sec. 4261)	9/30/07
c. Air cargo tax (sec. 4271)	9/30/07
2. Reduced excise tax rates for alcohol fuels and alcohol fuels mixtures (secs. 4041(b)(2) and (k), 4081(c)(8), and 4091(c)(5))	9/30/07 ¹⁹
3. Alcohol fuels income tax credits (sec. 40(e))	12/31/07 ²⁰
4. New markets tax credit (sec. 45D(f))	12/31/07 ²¹
5. FUTA surtax of 0.2 percent (sec. 3301(a)(1))	12/31/07

¹⁸ The 4.3-cents-per-gallon rate is permanent.

¹⁹ The reduced rates expire 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.

²⁰ The income tax credits expire 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.

²¹ The new markets tax credit limitation is reduced to zero on January 1, 2008.

F. Provisions Expiring in 2008

Provision (Code section)	Expiration Date
1. Disclosure of tax return information for administration of certain veterans programs (sec. 6103(l)(7)(D)(viii))	9/30/08
2. Reduced capital gain rates (sec. 1(h)) ²²	12/31/08
3. Dividends of individuals taxed at capital gain rates (sec. 1(h)) ²³	12/31/08

²² 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”).

²³ The expiration date is contained in section 303 of JGTRRA.

G. Provisions Expiring in 2009

Provision (Code section)	Expiration Date
1. Empowerment zone tax incentives:	
a. Increased exclusion of gain on the sale of qualified business stock of an empowerment zone business through 12/31/14 (secs. 1202(a)(2)(C) and 1391(d)(1)(A)(i))	12/31/09
b. Empowerment zone tax-exempt bonds and employment credit (secs. 1394, 1396, and 1391(d)(1)(A)(i))	12/31/09
b. Increased expensing under sec. 179 (secs. 1397A and 1391(d)(1)(A)(i))	12/31/09
c. Nonrecognition of gain on rollover of empowerment zone investments (secs. 1397B and 1391(d)(1)(A)(i))	12/31/09 ²⁴
2. Renewal community tax incentives:	
a. Zero-percent capital gains rate for investment in renewal communities for gains through 12/31/14 (secs. 1400F(2)(A)(i), (3)(A), and (4)(A)(i))	12/31/09
b. Employment credit (sec. 1400H)	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

²⁴ The empowerment zone tax incentives may expire earlier with respect to an empowerment zone if the State and local governments provided for an expiration date in their nomination of an empowerment zone, or the appropriate Secretary revokes an empowerment zone's designation.

H. Provisions Expiring in 2010

Provision (Code section)	Expiration Date
1. All provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ²⁵	12/31/10

²⁵ 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 accelerates 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 these changes the same as the sunset applies to the EGTRRA provisions to which the changes relate.