Potential changes to tax law

and what it would mean for forest landowners

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In December of 2017, Congress passed the Tax Cuts and Jobs Act (TCJA). This large piece of legislation (over 1000 pages!) simplified filing for many taxpayers. It also changed several provisions and suspended others. But as is becoming normal, there are expiration dates on many of the changes. Without any action by Congress in 2025, we will see many provisions return to the way they were in 2017. In other cases the provision won't expire but any time policymakers open up the tax code it is an opportunity to make changes.

We are just two weeks from the 2024 elections as I write this. There will be a new president in 2025 and you should expect to hear about changes to the Internal Revenue Code. We have a few different paths in front of us regardless of who wins the election but obviously each candidate will have preferred paths. If Trump wins the White House he is likely to extend or make permanent many of the TCJA provisions that are set to expire. His administration would likely extend those provisions that are seen as beneficial to his constituents and potentially tweak other provisions. If Harris wins the White House she has several options including letting all of the provisions expire or accepting some of the provisions and letting others expire. Let's look at some of the provisions that are set to expire and how they have impacted forest landowners.

Tax Rates and Brackets

Prior to the TCJA, our brackets ranged from 10 - 39.6% for individual tax returns. The TCJA changed those rates to 10 - 37% and raised the income level eligible for each bracket. These changes resulted in lowering taxes. If no action is taken in 2025, the tax rates and bracket widths will revert to the pre-2018 levels as adjusted for inflation. The TCJA also reduced the corporate income tax from 35% to 21% but that change is permanent (*well as much as anything in tax law is permanent*).

Standard Deduction and Personal Exemptions

The TCJA significantly increased the standard deduction almost doubling the 2017 deduction. Additionally, personal exemptions were suspended for tax years 2018-2025. If allowed to expire, the standard deduction will return to $13,000 plus inflation adjustment for married filing jointly ($29,200 for 2024 under TCJA) and personal exemptions will return with pre-2018 levels indexed for inflation (it would be $5,050 per individual in household plus an inflation adjustment). The TCJA changes generally resulted in lower taxes especially for those who were not itemizing and had small households. For almost everyone it made filing significantly easier as many taxpayers no longer had an incentive to itemize their deductions.

Deduction for State and Local Taxes (SALT)

Taxpayers who itemize their deductions have been able to deduct state and local income taxes, state and local property taxes and sales taxes. The TCJA introduced a limit of $10,000 (no inflation adjustment) in the aggregate. This deduction is only available for taxpayers who itemize deductions. <u>However, forest landowners who own forest land as a business can deduct property taxes as an operating expense on Schedule C (or F)</u>. Investors would take the expense only if they itemize deductions but are not subject to the limitation. If allowed to expire there is no real change for forest landowners unless they own the land for personal use (no profit intent) in which case the expiration would remove the $10,000 cap.

Miscellaneous Itemized Deductions

The TCJA suspended miscellaneous itemized deductions that were subject to a 2% floor. Prior to the TCJA taxpayers who own forestland as an investment would deduct operating expenses as miscellaneous itemized deductions. Many of those expenses are now capitalized (with the exception of the property tax as discussed above). If this provision is allowed to expire, miscellaneous itemized deductions will no longer be suspended and investors would regain the ability to immediately deduct more operating expenses.

Casualty Loss

The casualty loss provisions were changed in the TCJA to limit *personal* casualty losses to those in a Federally declared disaster area. Prior to the TCJA, no disaster declaration was necessary for personal casualty losses. Taxpayers who had forestland (or timber) that is held with a profit motive (business or investment use) do <u>not</u> need a disaster declaration to be eligible for the deduction. If this provision expires in 2025 it will revert back to prior law removing the need for the declaration for those holding property for personal use (no profit motive). This will not affect those holding as business or investment.

Estates

The TCJA made a large increase to the estate tax exclusion amount which is the dollar value of assets that can be passed through an estate without federal estate taxes. Prior to the passage of the TCJA, a taxpayer could transfer $5.5 million in assets through their estate without triggering the estate tax. The TCJA almost doubled this exclusion to just over $11 million in 2018. For deaths in 2024 the exclusion is $13.61 million as the amount is indexed for inflation each year. If no action is taken and this provision expires in 2025, the exclusion amount is estimated to be approximately $7 million for 2026 decedents. Many landowners would agree that the higher exclusion amount is a benefit especially for those who have larger acreages and mature timber and so allowing this to expire

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would hurt those larger estates.

Business Provisions

There are several provisions for businesses that were changed by the TCJA. These include the qualified business income (QBI) deduction (Section 199A), loss limitations for excess business losses (Section 461) and bonus depreciation (Section 168). Each of these will expire beginning with the QBI deduction (2025), loss limitation (2029), and bonus depreciation (2026) if no action is taken. Generally, the QBI deduction is useful for some forest landowners and the loss of it will hurt those folks but have no effect on others. The loss limitation is likely not good for some larger landowners who have a loss and so it's expiration would be welcome. Bonus depreciation had a phase-out schedule so for 2024 was 40%. This expedited depreciation would be positive for anyone who purchased eligible depreciable property prior to 2023. Extending bonus depreciation will only be useful if there were no eligibility dates attached.

Summary

These are just some of the many provisions within the TCJA that will expire at the end of 2025 or soon thereafter. The act did include some permanent provisions which I did not cover here. Those of course are in danger (as is pretty much the entire code) if Congress decides to do a major revision. We could certainly use some simplification (*but then I'd have to find something new to work on*) but asking for simplification can cost us some of the provisions we find most useful.

A letter to our newly elected President and Congress: A tax policy wish list from a forest landowner

Congratulations on your election to this most important position. I know you will have many special interest groups reaching out to you with requests for money or changes to the law. I'd like to call your attention to everyone's favorite topic, the tax code. As you likely know many of the provisions that were altered in the Tax Cuts and Jobs Act (TCJA) of 2017 are set to expire at the end of 2025. I'd like to provide some information on provisions that I would like to see extended and/or allowed to expire as well as some notes on valuable provisions.

I appreciate the lowering of the tax rates and the widening of the brackets. Having some consistency in these rates over time would be helpful in my tax planning so extending or making permanent the rates would be appreciated.

It takes a long time to grow trees and often I need to spend money to either protect my forest or improve the growth of the trees. It is important that forest landowners have the ability to deduct those operating expenses whether they are trying to make a profit or not. Currently I can only deduct my operating expenses if I am in the business or an investor. I would like to request that the suspension of miscellaneous itemized deductions be allowed to expire so that all forest landowners (except hobby owners) can currently deduct operating expenses associated with forest management.

Planning our affairs so that the estate tax will not require my children to sell the land is a constant concern for us. The TCJA increased the estate tax exclusion which will allow us to pass the land on as a legacy of stewardship. I would request that this be made permanent along with the annual inflation adjustment.

When I have timber income it will qualify for capital gains treatment and so I'd like to continue to be able to utilize that provision. While I may not plant trees every year, when I do it can be expensive and it will be many years before I can recover my investment through depletion. The reforestation incentive is a valuable provision allowing me to deduct those expenses much earlier and is important to forest landowners.

In closing, as a forest landowner my forest provides many ecosystem services for which I'm not compensated yet everyone benefits (clean air, clean water, wildlife habitat, etc.). My wish is for tax policies to take into account the long-term nature of an investment in forest management and the risk that forest landowners take in providing these services as well as producing the paper and wood products which this country depends upon.

Sincerely,

Clay Forrester