

# Expiring provisions of the tax cuts and jobs act – what needs your attention now

February 6, 2024



# Learning objectives

1. Recognize the key provisions of the expiring Tax Cuts and Jobs Act that will affect both business owners and high net worth individuals in 2025.
2. Describe the potential consequences of the expiring provisions.
3. Identify the specific areas of taxation, such as individual-owned passthrough businesses, estate and gift taxes, and itemized deductions, that are likely to be affected by the expiration of key provisions in 2025.

# Agenda

- 01 Introduction
- 02 Timeline and selected provisions set to expire
- 03 Case Study #1 – Planning for Liquidity Event
- 04 Case Study #2 – Business Succession Planning
- 05 Case Study #3 – Planning With Liquid Investment Portfolios

# With you today



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# What lies ahead?

2024 Elections



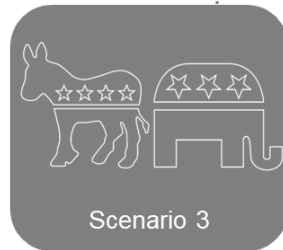
Scenario 1

Dems sweep House, Senate and White House



Scenario 2

Republicans sweep House, Senate and White House



Scenario 3

Mixed

Political platforms

House and Senate up for grabs

Political platforms

Perfect storm

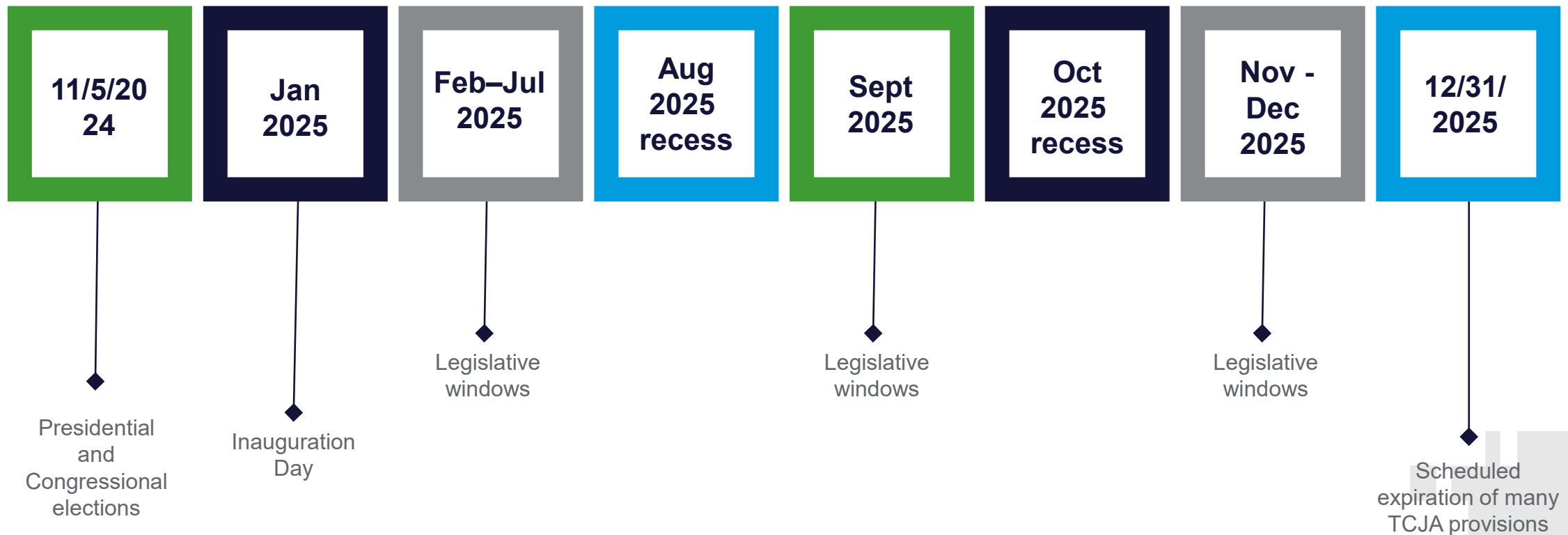
Sunsets and more  
(2024-2025)

2025 TCJA individual provisions sunset

OECD Pillar One and Two and IRS funding/performance

What's on the table? Everything

# Timeline of opportunities for Congress and President to address expiring TCJA provisions



# Summary of selected expiring provisions

## Income tax

- 37% top income tax rate reverting to 39.6%
- Highest Bracket MFJ - \$693,750 in 2023 from \$470,700 in 2017
- Standard deduction amount reduced
- Removal of SALT deduction limits
- Personal exemptions and miscellaneous itemized deductions back
- Office in home for Employees

## Estate planning

- Sunset of the estate, gift, and GST tax exemptions
- Exemptions cut in half from the 2025 exemptions – from an estimated \$14 million per person to an estimated \$7 million per person

## Business owners

- QBID (§199A) expiration
  - 29.6% to 39.6%
- End of phasedown of accelerated depreciation (bonus)
- Opportunity Zone Capital Gain Deferral

A blue rectangular box containing the text "Case study #1" and "Planning for liquidity event" in white, sans-serif font. The background of the entire slide is a high-angle photograph of a city skyline at sunset, with the Empire State Building as the central focus. A dark blue, pixelated graphic element is visible in the top left corner.

Case study #1  
Planning for liquidity event



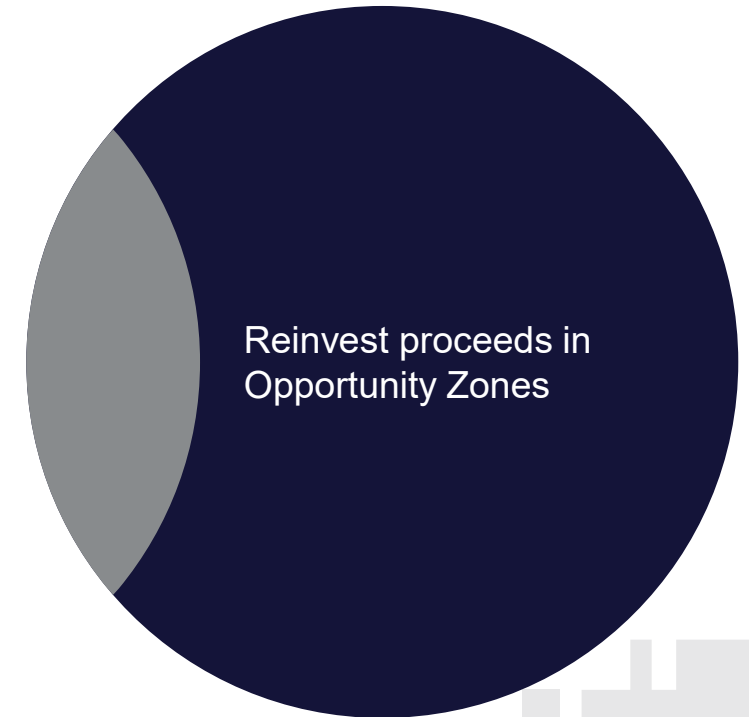
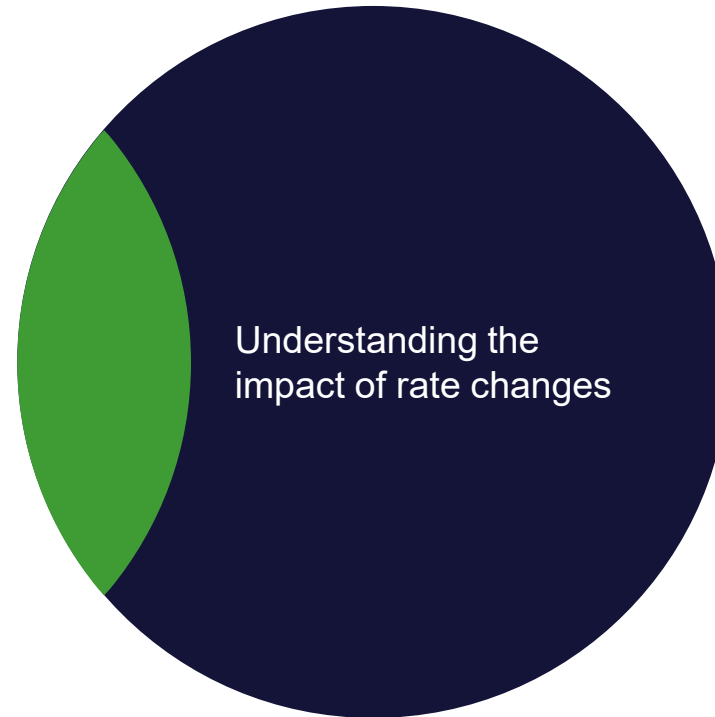
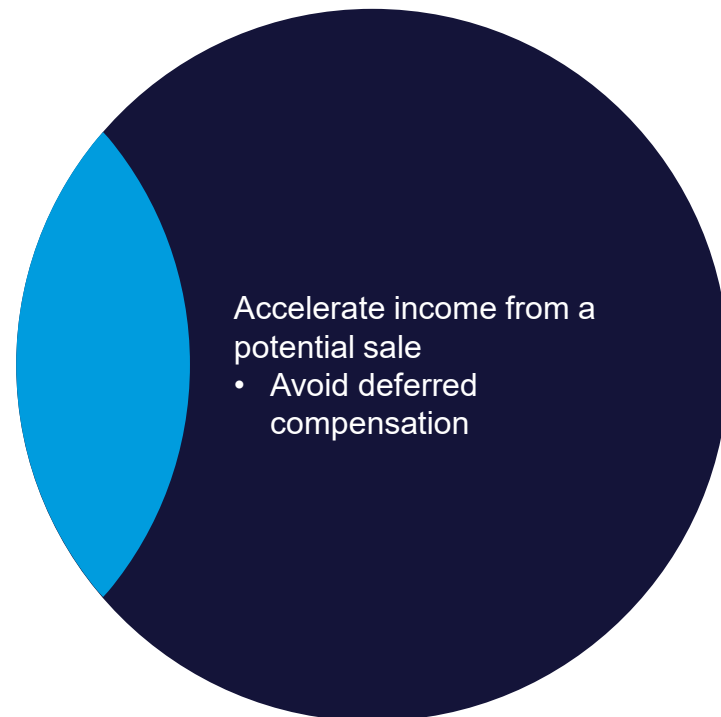
# Case study #1: planning for liquidity event

- Kristina holds a majority interest in XYZ LLC
- Value of Kristina's interest: \$50 million
- Passthrough entity for income tax purposes
- Kristina anticipates that XYZ LLC will continue to increase in value. She is considering a sale of all or almost all of her interest in the next few years to a strategic buyer at a significant premium.

# Business Related Considerations

- Expiration of Qualified Business Income Deduction (§199A) increases taxes on operating income
- Top individual rate reverting to 39.6 percent compounds that impact
- Combine impact if full QBI deduction was available results in increase in taxes on operating income of 10 percent
  - 37 percent top rate reduced to 29.6 percent with full QBI deduction, compared to 39.6 percent after expiration of TCJA provisions
- If asset intensive business, phasedown of accelerated depreciation may also increase taxable income over the window
- Salt deduction limitation expiring; HOWEVER, state PTE regimes are not tied to TCJA sunseting
- PTE regimes enacted by states may still prove beneficial

# Individual Income Tax Considerations



# Estate planning considerations

## Common strategies

- Gifts under the available exemption
- Sale to irrevocable trust in exchange for a promissory note (IDGT)
- Grantor-retained annuity trust (GRAT)

## Valuation issues

Fully implement all estate planning transfers well ahead of the liquidity event

The background is a high-angle photograph of a city street at dusk. A silver train is traveling on an elevated track that curves through the scene. The buildings are a mix of brick and modern glass structures. The sky is a mix of blue and orange from the setting sun. A blue rectangular box is overlaid on the left side of the image, containing white text.

## Case study #2 Business succession planning

# Case study #2: Business Succession Planning

- Terry operates ABC LLC with his siblings as equal owners
- Value of Terry's interest: \$50 million
- Passthrough entity for income tax purposes
- Terry and his siblings believe the business would be more valuable to future generations if it is kept in the family rather than being sold to a third party
- Terry has three children and two grandchildren. He wants to start planning for a smooth transition of the business to children and eventually to grandchildren

# Business Related Considerations

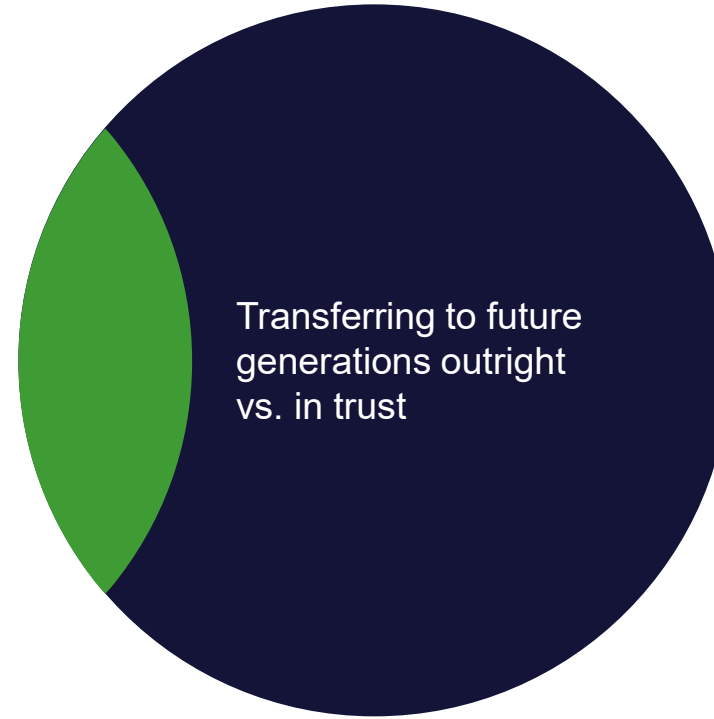
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# Business Related Considerations

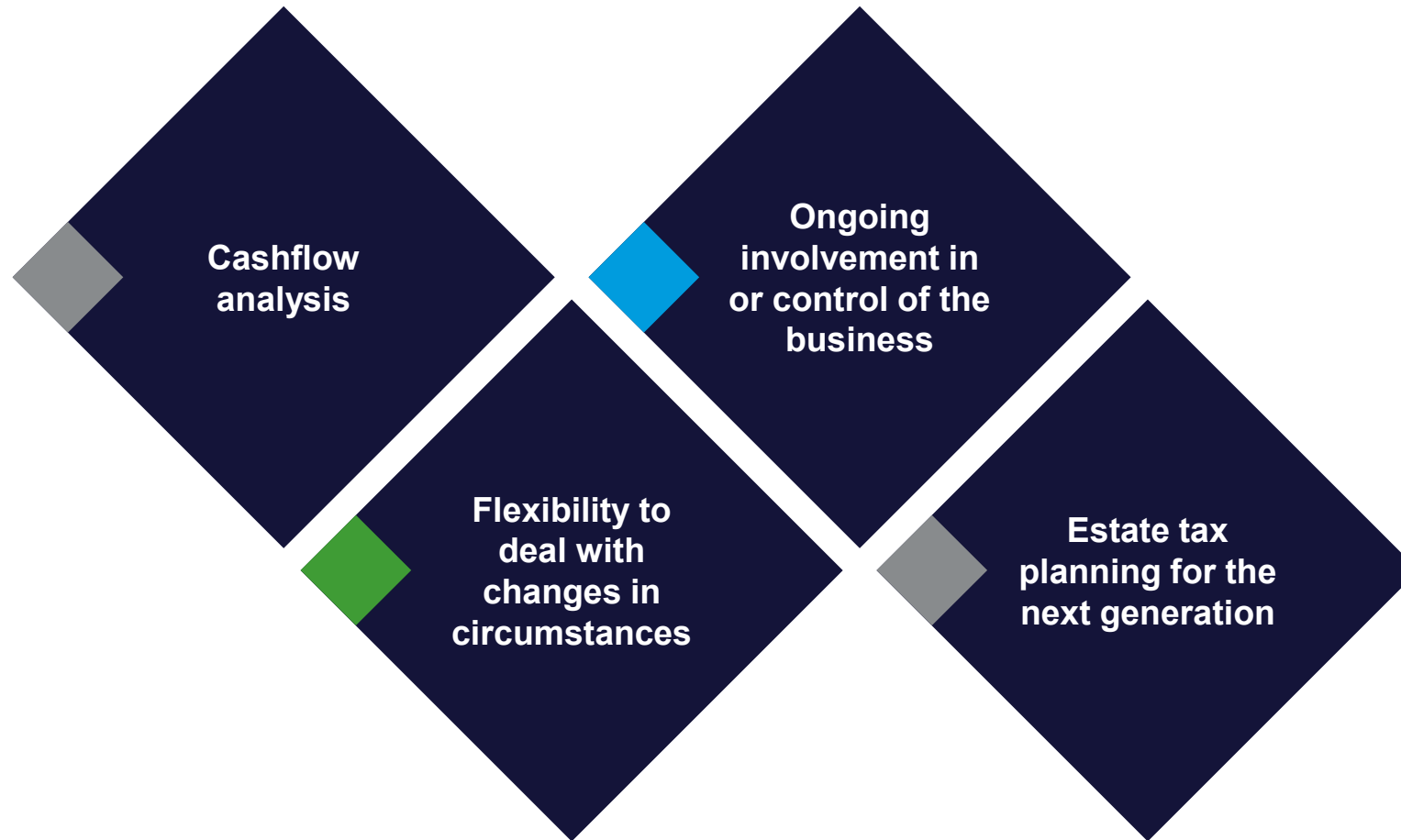
- C Corporation rate to remain at 21 percent – not set to expire with TCJA sunseting
- Second layer of tax remains at 23.8 percent
- Results in all in corporate rate of ~39.8 percent
- However, if no cash is distributed the second level of tax can be deferred
- This results in an ~18.6 percent lower rate operating income for a C corporation compared to a pass-through entity



# Individual Income Tax Considerations



# Estate planning considerations



An aerial view of a dense city skyline, likely Shanghai, featuring numerous skyscrapers and a mix of modern and older buildings. A large blue rectangular box is overlaid on the left side of the image, containing the text.

# Case study #3

## Planning with liquid investment portfolios

## Case study #3: planning with liquid investment portfolios

- Alex sold her business three years ago to a strategic buyer
- After taxes, her share of the net sale proceeds was \$200 million
- Alex used the sale proceeds to establish a diversified investment portfolio, a substantial portion of which consists of marketable securities

# Business Related Considerations

- If investment in pass-through entities that may generate ordinary operating income is part of investment strategy, after tax ROI may be impacted:
  - By increase in top tax rates
  - Expiration of QBI deduction
- State PET elections for investments in pass-through entities may continue to be advantageous

# Individual Income Tax Considerations

Removal of the deduction limitation for state and local taxes paid

## Charitable Planning

- IRA qualified charitable rollovers

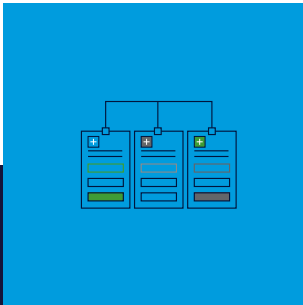
- Percent of deductible adjusted gross income for public charities will decrease from 60% to 50%

- Timing of charitable contributions

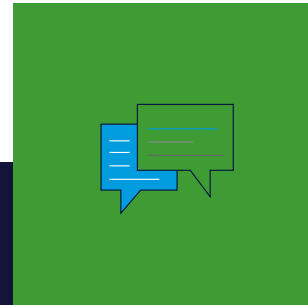
Top income tax rate goes to 39.6%, up from 37%

- May want to consider a Roth conversion

# Individual income tax considerations

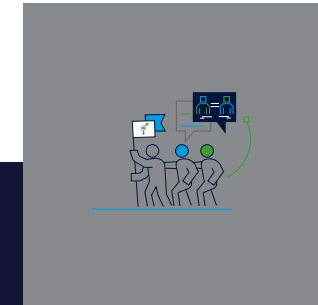


Removal of the deduction limitation for state and local taxes paid



## Charitable Planning

- IRA qualified charitable rollovers
- Percent of deductible adjusted gross income for public charities will decrease from 60% to 50%
- Timing of charitable contributions



Top income tax rate goes to 39.6%, up from 37%

- May want to consider a Roth conversion

# Estate planning considerations

- Strategic gifts
- Using GST exemption
- Inserting flexibility into documents if sunset is avoided
- Charitable giving opportunities



# Estate planning considerations



Thank you





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