

US Tax Legislation

Client Alerts

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The US House and Senate are negotiating toward a July 4, 2025 deadline for the next massive US tax legislation. Current proposals are designed to continue many of the business-friendly provisions of President Trump's 2017 tax legislation that are scheduled to end, and they also eliminate many of the climate and clean-energy provisions in his predecessor Biden's tax legislation.

An important proposal is to increase "bonus depreciation" back up to 100% of the cost of qualifying new and used tangible property and extend the years in which a taxpayer may use this 100% bonus depreciation, beginning in early 2025 (40% is all that is allowed in 2025 under current law) all the way through the end of 2029 (or 2030 in the case of long-production property and certain aircraft). The Congressional Joint Committee on Taxation recently estimated this provision would reduce tax receipts by (cost the United States) more than \$219 billion over ten years, the costliest of the many pro-business provisions in the tax package.

On the other hand, energy and environmental investment tax credit provisions and tax-credit-transferability provisions enacted by former-President Biden are shortened. For example, the transferability of the carbon capture sequestration credit and clean energy and storage credits is eliminated with respect to equipment where the construction of such equipment begins more than two years after the enactment of the bill. The Biden Inflation Reduction Act's (IRA) transferability provisions, which allow one taxpayer to sell for cash most credits generated under the IRA to another taxpayer (usually at a discount), were an important driver and funding mechanism for investment in clean energy and clean manufacturing projects. Terminating credit transferability would likely cause a much shorter effective investment cycle and much smaller investment in new clean energy and storage projects under the IRA. In an even more dramatic move, the current proposal would eliminate entirely the production and investment credits for clean hydrogen facilities with construction that begins in 2026 or later (effectively killing any clean hydrogen projects that are currently being contemplated).

Considering tax uncertainties, together with geopolitical uncertainties, M&A negotiations are likely to require far more tailored and negotiated provisions designed to address a broad range of value uncertainties; ones we look forward to helping our clients address.

1. Bonus Depreciation and Section 179 Expensing

- House: Extends 100% bonus depreciation for qualified production property through 2029, expands Section 179 limits to \$2.5 million with a \$4 million phase out.
- Senate: Retains these enhancements; no major rollbacks reported.

2. Business Interest Deduction (Sec 163(j))

- House: Restores EBITDA safe harbor for interest deduction (i.e., add backs for depreciation/amortization) through 2030.
- Senate: Continues this restoration, aligning with House terms.

3. Research and Experimental Expensing and R&D

- House: Restores full R&D expensing (R&D and domestic experimental costs) through 2029.
- Senate: Maintains permanent R&D deduction; confirmed continuation.

4. Qualified Business Income (QBI) – Pass Throughs

- House: Permanently extends QBI deduction, increasing it from 20% to 23% beginning in 2026.
- Senate: Mirrors House – keeps 23% permanent deduction.

5. 1099 Reporting Thresholds

- House: Raises Form 1099 MISC/NEC and 1099 K thresholds to \$2,000 and indexes them.
- Senate: Assumed to adopt same thresholds; no indication of rollback.

6. SALT and Pass Through Entity Workarounds

- House: Raises individual SALT cap to \$40,000 (\$20,000 MFS), phases out above \$500,000 AGI; business property taxes remain fully deductible; blocks SSTB PTE SALT workarounds.
- Senate: Reverts SALT cap to \$10,000; ongoing negotiations with placeholder figure.

7. Special Depreciation for Production Property

- House: Allows elective 100% depreciation for production assets (manufacturing/agriculture) with partial recapture if used for other purposes.
- Senate: No reported change; assumed retained.

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