

Expired and Expiring Temporary Tax Provisions (Including “Tax Extenders”)

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Expired and Expiring Temporary Tax Provisions (Including “Tax Extenders”)

Numerous temporary tax provisions expired at the end of 2021, with other temporary tax provisions set to expire in 2022 or the coming years. Collectively, temporary tax provisions that are regularly extended as a group by Congress, rather than being allowed to expire as scheduled, are often referred to as “tax extenders.”

Most recently, tax extenders were included in the Taxpayer Certainty and Disaster Tax Relief Act of 2020, enacted as Division EE of the Consolidated Appropriations Act, 2021 (P.L. 116-260). P.L. 116-260 extended temporary tax provisions, making some temporary provisions permanent, extending some through 2025, and providing a short-term (generally one-year) extension for energy-related provisions. Most of the energy-related provisions that were extended through 2021 expired, but were later retroactively extended in the 2022 budget reconciliation legislation (P.L. 117-169), commonly referred to as the Inflation Reduction Act of 2022. Because of past longer-term extensions of expiring provisions and the extension of energy-related provisions in the Inflation Reduction Act, there are few expired tax provisions that were part of past tax extenders legislation. The temporary tax provisions that expired at the end of 2021, and have not yet been extended, tend to be small in their estimated revenue effect. Extending expired provisions that have previously been included in tax extenders legislation would be expected to have a small effect on overall federal tax revenues, and be small relative to the size of past tax extenders legislation.

The 117th Congress may be interested in evaluating policy options related to temporary tax policies that extend beyond the scope of what might be considered traditional tax extenders. Several temporary tax provisions enacted in response to the COVID-19 pandemic and related economic recession expired at the end of 2021, including a number of provisions providing tax relief to individuals and families. The 2017 tax legislation (P.L. 115-97), commonly referred to as the Tax Cuts and Jobs Act (TCJA), included a number of provisions with delayed implementation dates, scheduled to be effective in 2022 or 2023. For example, the TCJA provision requiring the amortization of research and experimental (R&E) expenditures applies after December 31, 2021. Beginning in 2023, 100% first-year bonus depreciation starts to phase down.

There are several options for Congress to consider regarding temporary tax provisions. Provisions that expired in 2021 or are scheduled to expire in the coming years could be extended. For expired provisions, the extension could be retroactive. The extension could be short term, long term, or permanent. Another option would be to allow expired provisions to remain expired and let other provisions expire as scheduled.

This report provides a broad overview of “tax extenders.” More information on specific temporary tax provisions can be found in

- CRS Report R46772, *Temporary Individual Tax Provisions (“Tax Extenders”)*, coordinated by Molly F. Sherlock and Jane G. Gravelle; and
- CRS Report R46800, *Temporary Business-Related Tax Provisions Expiring 2021-2027 and Business “Tax Extenders,”* coordinated by Jane G. Gravelle and Molly F. Sherlock.

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Forty temporary tax provisions expired in 2021, although expired energy tax provisions were extended by P.L. 117-169, commonly referred to as the Inflation Reduction Act of 2022.¹ Many of the remaining provisions that expired in 2021 have expired in the past and later been extended. Collectively, temporary tax provisions that are regularly extended as a group by Congress (rather than being allowed to expire as scheduled) are often referred to as “tax extenders.” Other provisions that expired in 2021 include several temporary tax provisions enacted in response to the COVID-19 pandemic and subsequent economic recession.² A number of additional provisions are scheduled to expire at the end of 2022 and 2023.³ Many provisions are scheduled to expire in 2025. Many of the 2025 expirations are of temporary tax policy changes that were part of the 2017 tax legislation commonly referred to as the Tax Cuts and Jobs Act (TCJA) (P.L. 115-97).⁴

There are several options for Congress to consider regarding temporary provisions. Expired or expiring provisions could be extended. A retroactive extension might be considered for provisions that expired at the end of 2021. The extension could be short term, long term, or permanent. Another option is to allow expiring provisions to expire as scheduled.

Congress has often chosen to extend most, if not all, recently expired or expiring provisions as part of tax extender legislation. Most recently, tax extenders were included in the Taxpayer Certainty and Disaster Tax Relief Act of 2020, enacted as Division EE of the Consolidated Appropriations Act, 2021 (P.L. 116-260). Before that, tax extenders were included in the Taxpayer Certainty and Disaster Tax Relief Act of 2019, enacted as Division Q of the Further Consolidated Appropriations Act, 2020 (P.L. 116-94), and the Bipartisan Budget Act of 2018 (BBA18; P.L. 115-123).⁵

Congress may also choose to evaluate the extension of selected expiring provisions in lieu of considering an extenders package that addresses most or all of the expiring provisions. As noted above, the Inflation Reduction Act of 2022 extended and modified expired energy-related tax provisions. In recent years, other non-energy provisions that had been long-standing tax extenders have been either made permanent or extended for longer periods of time. As a result, the current set of temporary and expired tax provisions is smaller in scope than has typically been the case in the past. Debates regarding proposals to modify or extend temporary tax provisions might also consider whether temporary tax provisions scheduled to expire in future years should be addressed in any legislation extending provisions that expired last year or will expire this year.

¹ Joint Committee on Taxation, *List of Expiring Federal Tax Provisions 2021-2031*, JCX-1-22, January 13, 2022. Six of these provisions expired September 30, 2021, while the remainder expired at the end of the calendar year. For more on the energy tax provisions that were retroactively extended, see CRS Report R47202, *Tax Provisions in the Inflation Reduction Act of 2022 (H.R. 5376)*, coordinated by Molly F. Sherlock. The Inflation Reduction Act of 2022 not only extended many expired and expiring energy provisions, but substantially modified numerous energy-related tax provisions, while introducing other new energy-related tax provisions.

² For more on temporary provisions enacted in response to the COVID-19 pandemic, including but also in addition to tax provisions, see CRS Report R46704, *Pandemic-Related Provisions Expiring in the 117th Congress*, coordinated by Andrew P. Scott and David P. Smole.

³ In addition to the temporary tax provisions scheduled to expire at the end of 2023, several excise taxes that fund the airport and airway trust fund are scheduled to expire September 30, 2023. See CRS Report R43327, *Financing Airport Improvements*, by Rachel Y. Tang; and CRS Report R44749, *The Airport and Airway Trust Fund (AATF): An Overview*, by Rachel Y. Tang and Bart Elias.

⁴ For more information, see CRS Report R45092, *The 2017 Tax Revision (P.L. 115-97): Comparison to 2017 Tax Law*, coordinated by Molly F. Sherlock and Donald J. Marples.

⁵ The BBA18 extension was entirely retroactive in extending expiring provisions through 2017. The BBA18 was enacted in February 2018, but the extensions were not available for 2018, the tax year in which the legislation was enacted. A list of previous tax extender legislation can be found in **Appendix B**.

This report provides a broad overview of tax extenders. More information on specific tax provisions that expired at the end of 2021 or are scheduled to expire in the coming years can be found in

- CRS Report R46772, *Temporary Individual Tax Provisions ("Tax Extenders")*, coordinated by Molly F. Sherlock and Jane G. Gravelle; and
- CRS Report R46800, *Temporary Business-Related Tax Provisions Expiring 2021-2027 and Business "Tax Extenders,"* coordinated by Jane G. Gravelle and Molly F. Sherlock.

The Concept of Tax Extenders

The tax code contains dozens of temporary tax provisions. In the past, legislation to extend some of these expiring provisions has often been referred to as the "tax extender" package. Although there is no formal definition of a *tax extender*, the term has regularly been used to refer to a package of expiring tax provisions temporarily extended by Congress. Often, these expiring provisions are temporarily extended for a short period (e.g., one or two years). Over time, as new temporary provisions were routinely extended and hence added to the package, the number of provisions that might be considered tax extenders grew.⁶ This trend was broken with the Protecting Americans from Tax Hikes Act of 2015 (PATH Act), enacted as Division Q of the Consolidated Appropriations Act, 2016 (P.L. 114-113), which made permanent a number of provisions that had been part of previous tax extender packages. As a result, following the PATH Act, there were fewer tax extender provisions. Since the PATH Act there have been additions of temporary tax provisions, including provisions enacted in response to the COVID-19 pandemic. Other legislation, including P.L. 116-260, has permanently extended provisions that had previously been tax extenders.

Evaluating Expiring Tax Provisions

There are various reasons Congress may choose to enact temporary (as opposed to permanent) tax provisions. Enacting temporary provisions, in theory, would provide Congress with an opportunity to evaluate such provisions before providing further extension. Temporary tax provisions may also be used to provide relief during times of economic weakness or following a natural disaster or other highly disruptive event. Congress may also choose to enact temporary provisions for budgetary reasons. Examining the reason why a certain provision is temporary rather than permanent may be part of evaluating whether it should be extended. It may also be instructive to evaluate tax extenders using economic concepts often used in general tax policy analysis, looking at tax extender provisions' impact on economic efficiency, equity, and simplicity.

Reasons for Temporary Tax Provisions

Enacting temporary tax provisions may provide an opportunity to evaluate effectiveness before expiration or extension. Making a tax provision temporary might allow for adjustment or modification before further extension, or expiration if the provision does not achieve its policy

⁶ For a history of the tax extenders, see U.S. Congress, Senate Committee on Rules and Administration, *The Evolving Congress*, "The Tax Extenders: How Congressional Rules and Outside Interests Shape Policy," committee print, prepared by Congressional Research Service, 113th Cong., 2nd sess., December 2014, S.Prt. 113-30, pp. 441-456, available at <http://www.gpo.gov/fdsys/pkg/CPRT-113SPRT89394/pdf/CPRT-113SPRT89394.pdf#page=453>.

objectives.⁷ However, this rationale is undermined if expiring provisions are regularly extended without systematic review or evaluation, as is often the case in practice.⁸ In recent years, tax extender packages have generally included all (or nearly all) expiring provisions.⁹

While extensions of expiring tax provisions are often the norm, there have been exceptions. For example, tax incentives for alcohol fuels (e.g., ethanol), which could be traced to policies first enacted in 1978, were not extended beyond 2011. The Government Accountability Office (GAO) had previously found that with the renewable fuel standard (RFS) mandate, tax credits for ethanol were duplicative and did not increase consumption.¹⁰ Congress may choose not to extend certain provisions if an evaluation determines that the benefits provided by the provision do not exceed the cost (in terms of forgone tax revenue). In recent years, there have been some temporary provisions left out of tax extenders legislation, effectively allowing provisions to expire as scheduled.¹¹

⁷ U.S. Congress, House Committee on Ways and Means, Subcommittee on Select Revenue Measures, *Temporary Policy in the Internal Revenue Code*, Testimony of Mark Mazur, 116th Cong., March 12, 2019, available at <https://waysandmeans.house.gov/legislation/hearings/temporary-policy-internal-revenue-code>.

⁸ In a report discussing issues related to oversight of tax expenditures, tax policy scholars noted that when it comes to tax extenders, "extension is often perfunctory." See Benjamin H. Harris, Eugene Steuerle, and Caleb Quakenbush, *Evaluating Tax Expenditures: Introducing Oversight into Spending through the Tax Code*, Tax Policy Center, July 10, 2018, at https://www.taxpolicycenter.org/sites/default/files/publication/155429/evaluating_tax_expenditures_introducing_oversight_into_spending_through_the_tax_code.pdf. This point was also made in U.S. Congress, Senate Committee on Finance, *Extenders and Tax Reform: Seeking Long-Term Solutions*, Testimony of Dr. Rosanne Altshuler, 112th Cong., January 31, 2012, available at <http://www.finance.senate.gov/hearings/hearing/?id=b1604e2e-5056-a032-52ff-dd661f9280f6>. There are instances where there has been more systematic evaluation. For example, when the New Markets Tax Credit (NMTC) was enacted by the Community Renewal Tax Relief Act of 2000 (P.L. 106-554) on a temporary basis, the legislation included a requirement that GAO audit the program and issue a reports to Congress.

⁹ The PATH Act, enacted as Division Q of the Consolidated Appropriations Act, 2016 (P.L. 114-113), extended all expiring provisions. Unlike other recent extenders packages, the PATH Act included a permanent extension for many provisions. Other provisions were extended for five years, while most provisions were extended for two years, in more typical tax extenders practice. For more information regarding provisions that were made permanent, as opposed to being extended for two or five years, see CRS Report R44677, *Tax Provisions that Expired in 2016 ("Tax Extenders")*, by Molly F. Sherlock. The Taxpayer Certainty and Disaster Tax Relief Act of 2020, enacted as Division EE of the Consolidated Appropriations Act, 2021 (P.L. 116-260), extended provisions expiring in 2020. Like in the PATH Act, some provisions were made permanent, some were extended for five years, and others were generally extended for one year, through 2021.

¹⁰ See U.S. Government Accountability Office, *Biofuels: Potential Effects and Challenges of Required Increases in Production and Use*, GAO-09-44, August 2009, at <http://www.gao.gov/new.items/d09446.pdf>; and U.S. Government Accountability Office, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, GAO-11-318SP, March 2011, at <http://www.gao.gov/assets/320/315920.pdf>.

¹¹ The tax extender package in the American Taxpayer Relief Act of 2012 (ATRA; P.L. 112-240) did not include several provisions that had been extended multiple times in the past. In addition to not including an extension of tax incentives for ethanol, ATRA did not include two charitable provisions, the enhanced deduction for donations of computer equipment and the enhanced deduction for book inventory to schools, which had first been enacted in 1997 and 2005, respectively. Other energy-related provisions that had been part of past tax extender packages but were not extended in ATRA included (1) the suspension of the 100%-of-net-income limitation on percentage depletion for oil and gas from marginal wells, first enacted in 1997; (2) the production tax credit (PTC) for refined coal, first enacted in 2004; and (3) the provisions that allowed for expensing of "brownfield" environmental remediation costs, first enacted in 1997. The estate tax look-through rule for regulated investment company (RIC) stock, first enacted in 2004, was also not extended. The credit for electric-drive motorcycles and three-wheeled vehicles was not included in P.L. 113-295, although the provision was modified and extended in P.L. 114-113. Two other energy-related provisions were not extended past their January 1, 2014, termination date: (1) the placed-in-service date for partial expensing of certain refinery property, and (2) the credit for energy-efficient appliances. The one business-related tax provision that expired at the end of 2016 that was not extended in the BBA18 was a provision relating to the allocation of qualified zone academy bonds; zone academy bonds were eliminated in the tax legislation enacted in December 2017 (P.L. 115-97).

Tax policy may also be used to address temporary circumstances in the form of economic stimulus or disaster relief. Several temporary economic stimulus measures were enacted to respond to the COVID-19 pandemic. Most of the temporary tax provisions enacted in response to the COVID-19 pandemic have expired.¹² Provisions such as those creating greater flexibility regarding the use of net operating losses (NOLs), increased business interest deduction limits, and the suspension of alcohol excise taxes for distilled spirits used to make hand sanitizer were not extended beyond 2020. The Taxpayer Certainty and Disaster Relief Act of 2020 already extended the temporary modifications to charitable giving incentives and temporary lookback rules for computing refundable tax credits that were first enacted as COVID-19 pandemic economic relief. Many of the temporary COVID-related tax measures expired in 2021 (as discussed below) and others are scheduled to expire in 2022 or in the following years. If recently expired or soon-to-expire tax provisions that were part of COVID relief legislation are further extended, these measures might become tax extenders. Some tax scholars have argued that provisions that were enacted to address a temporary situation should be allowed to expire once the situation is resolved.¹³

Other examples of temporary provisions that have been enacted to address special economic circumstances include the exclusion of forgiven mortgage debt from taxable income during the housing crisis of the late 2000s,¹⁴ the payroll tax cut following the Great Recession,¹⁵ and the grants in lieu of tax credits to compensate for weak tax-equity markets during the economic downturn (the Section 1603 grants).¹⁶ The temporary provisions allowing for an exclusion of discharged mortgage debt and treating mortgage insurance premiums as interest for tax purposes have continued to be extended, while the Great Recession payroll tax cut and Section 1603 Grant program were allowed to expire.

The election to expense 50% of the cost of advanced mine safety equipment, which was first enacted in 2006 and effective for the 2007 tax year, was not extended past December 31, 2017. Advanced mine safety equipment may be expensed under Section 179 and may also qualify for bonus depreciation. Other provisions were not extended following broader tax policy changes that were part of P.L. 115-97 (TCJA). The domestic production activities deduction (Section 199 deduction) was repealed as part of the TCJA and the temporary deduction allowable with respect to income attributable to domestic production activities in Puerto Rico was not extended. The temporary special rate for C corporations' timber gains of 23.8% was also not extended after the top corporate tax rate was reduced from 35% to 21% by the TCJA.

¹² For background on the COVID-19-related tax policy response, see CRS Report R46279, *The Coronavirus Aid, Relief, and Economic Security (CARES) Act—Tax Relief for Individuals and Businesses*, coordinated by Molly F. Sherlock; CRS Report R46649, *The COVID-Related Tax Relief Act of 2020 and Other COVID-Related Tax Provisions in P.L. 116-260*, by Molly F. Sherlock et al.; and CRS Report R46680, *The American Rescue Plan Act of 2021 (ARPA; P.L. 117-2): Title IX, Subtitle G—Tax Provisions Related to Promoting Economic Security*, by Molly F. Sherlock, Margot L. Crandall-Hollick, and Jane G. Gravelle. For information on payroll tax relief provisions, see CRS Report R47062, *Payroll Taxes: An Overview of Taxes Imposed and Past Payroll Tax Relief*, by Anthony A. Cilluffo and Molly F. Sherlock.

¹³ This point was made in U.S. Congress, Senate Committee on Finance, *Extenders and Tax Reform: Seeking Long-Term Solutions*, Testimony of Dr. Rosanne Altshuler, 112th Cong., January 31, 2012, available at <http://www.finance.senate.gov/hearings/hearing/?id=b1604e2e-5056-a032-52ff-dd661f9280f6>; and U.S. Congress, House Committee on Ways and Means, Subcommittee on Select Revenue Measures, *Framework for Evaluating Certain Expiring Tax Provisions*, Testimony of Donald B. Marron, 112th Cong., June 8, 2012, available at <https://gop-waysandmeans.house.gov/UploadedFiles/Marron.pdf>.

¹⁴ For more information, see CRS Report RL34212, *Analysis of the Tax Exclusion for Canceled Mortgage Debt Income*, by Mark P. Keightley and Erika K. Lunder.

¹⁵ For more information, see CRS Report R47062, *Payroll Taxes: An Overview of Taxes Imposed and Past Payroll Tax Relief*, by Anthony A. Cilluffo and Molly F. Sherlock.

¹⁶ For more information, see CRS Report R41635, *ARRA Section 1603 Grants in Lieu of Tax Credits for Renewable Energy: Overview, Analysis, and Policy Options*, by Phillip Brown and Molly F. Sherlock.

The Taxpayer Certainty and Disaster Tax Relief Act of 2020 also provided temporary tax relief to taxpayers affected by disasters generally occurring in 2020, similar to relief that had previously been provided for 2018 and 2019 disasters. This relief included, among other provisions, an enhanced casualty loss deduction, increased corporate charitable giving incentives, provisions enhancing access to retirement funds, and a tax credit for employee retention.¹⁷ Other provisions that had previously been part of disaster tax relief packages, including income lookback rules for refundable tax credits and increased limits for individual charitable giving deductions, had already been provided in COVID-19 response legislation.

The Inflation Reduction Act of 2022 included numerous temporary energy tax provisions, which proponents of the legislation supported as investments in climate and energy.¹⁸ Many of the provisions in the IRA are longer-term (10-year) but still temporary policies. Key provisions supporting clean electricity are designed to phase out when emissions reductions targets are achieved.¹⁹

Congress may also choose to enact temporary tax policies for budgetary reasons. If policymakers decide that legislation that reduces revenues must be paid for, it is easier to find resources to offset short-term extensions rather than long-term or permanent extensions.²⁰ If tax policy is passed under budget reconciliation, lawmakers might make tax provisions temporary, or phase in revenue raising provisions, to meet fixed revenue targets, as opposed to sunseting or delaying a provision for a policy reason.²¹ For example, many of the individual tax provisions in the 2017 tax legislation commonly referred to as the Tax Cuts and Jobs Act (P.L. 115-97) were enacted on a temporary basis, scheduled to terminate at the end of 2025, to adhere to the reconciliation process's budgetary restrictions.

Temporary tax policies can make the long-term fiscal outlook appear stronger. The Congressional Budget Office (CBO) assumes, under the current-law baseline, that temporary tax cuts expire as scheduled. Thus, the current-law baseline does not assume that temporary tax provisions are regularly extended. Hence, if temporary expiring tax provisions are routinely extended in practice, the CBO current-law baseline would tend to overstate projected revenues. By making tax provisions temporary rather than permanent, these provisions appear to have a smaller effect on the long-term fiscal outlook than they actually do when extended.²²

¹⁷ For more information, see CRS Report R45864, *Tax Policy and Disaster Recovery*, by Molly F. Sherlock and Jennifer Teefy.

¹⁸ For President Biden's position, see Executive Office of the President, "Statement of Administration Policy: H.R. 5376 – Inflation Reduction Act of 2022," August 6, 2022, at <https://www.whitehouse.gov/wp-content/uploads/2022/08/SAP-H.R.-5376.pdf>.

¹⁹ For more on the temporary energy tax provisions in the IRA, see CRS Report R47202, *Tax Provisions in the Inflation Reduction Act of 2022 (H.R. 5376)*, coordinated by Molly F. Sherlock.

²⁰ U.S. Congress, House Committee on Ways and Means, Subcommittee on Select Revenue Measures, *Framework for Evaluating Certain Expiring Tax Provisions*, Testimony of Donald B. Marron, 112th Cong., June 8, 2012.

²¹ Rebecca M. Kysar, "The New Tax Legislative and Regulatory Process," *National Tax Journal*, vol. 73, no. 4 (December 2020), pp. 1135-1162. For more information on congressional budget rules for revenue legislation, see CRS Report R41408, *Rules and Practices Governing Consideration of Revenue Legislation in the House and Senate*, by Megan S. Lynch.

²² U.S. Congress, Senate Committee on Finance, *Extenders and Tax Reform: Seeking Long-Term Solutions*, Testimony of Dr. Rosanne Altshuler, 112th Cong., January 31, 2012, available at <http://www.finance.senate.gov/hearings/hearing/?id=b1604e2e-5056-a032-52ff-dd661f9280f6>.

Extenders as Tax Benefits

Temporary tax benefits are a form of federal subsidy that treats eligible activities favorably compared to others, and channels economic resources into qualified uses. Extenders influence how economic actors behave and how the economy's resources are employed. Like all tax benefits, extenders can be evaluated by looking at their impact on economic efficiency, equity, and simplicity.²³ Temporary tax provisions may be efficient and effective in accomplishing their intended purpose, but not equitable. Alternatively, an extender may be equitable but not efficient. An evaluation of tax extenders as tax benefits could provide policymakers with an opportunity to decide which economic objectives matter most. In practice, however, there is limited systematic evaluation of tax extenders.²⁴

Economic Efficiency

Extenders often provide subsidies intended to encourage more of an activity than would otherwise be undertaken. According to economic theory, in most cases an economy best satisfies the wants and needs of its participants if markets allocate resources free of distortions from taxes and other factors. Markets may fail, however, to optimally allocate society's economic resources. If a tax incentive can improve on the market outcome, then economic efficiency may be enhanced by the tax policy intervention.²⁵ Thus, an extender's ability to improve economic welfare depends in part on whether or not it is remedying a market failure. According to theory, a tax extender reduces economic efficiency if it is not addressing a specific market failure or provides more subsidy than is needed to improve the market outcome.

An extender is also considered relatively effective if it stimulates the desired activity better than a direct spending program or other form of subsidy. Direct spending programs, for example, can often be more successful at targeting resources than indirect subsidies made through the tax system.²⁶ Evaluating tax expenditures, including tax extenders, could involve asking whether the Internal Revenue Service is the best agency to administer the federal financial support.²⁷

The timing of a provision's enactment can affect its economic efficiency and effectiveness. For many tax incentives, but particularly those designed to encourage certain types of investments, provisions are most effective when enacted before investment decisions are made. Tax policies are most likely to factor into decisionmaking when they are known ahead of time. Tax policies

²³ Using these "criteria for good tax policy" to evaluate tax extenders was discussed in U.S. Congress, House Committee on Ways and Means, Subcommittee on Select Revenue Measures, *Framework for Evaluating Certain Expiring Tax Provisions*, Testimony of Dr. Jim White, 112th Cong., June 8, 2012.

²⁴ See Benjamin H. Harris, Eugene Steuerle, and Caleb Quakenbush, *Evaluating Tax Expenditures: Introducing Oversight into Spending through the Tax Code*, Tax Policy Center, July 10, 2018, https://www.taxpolicycenter.org/sites/default/files/publication/155429/evaluating_tax_expenditures_introducing_oversight_into_spending_through_the_tax_code.pdf, making the point that there is limited evaluation of tax expenditures broadly, not just limited evaluation of extenders. One evaluation of tax expenditures is prepared each Congress by the Congressional Research Service. See CRS Committee Print CP10004, *Tax Expenditures: Compendium of Background Material on Individual Provisions — A Committee Print Prepared for the Senate Committee on the Budget, 2020*, by Jane G. Gravelle et al.

²⁵ Market failure occurs when the marginal benefit of an action does not equal the marginal cost. For example, polluting forms of energy production cause social costs that are not taken into account by the producer; hence, there is an argument for taxing this type of energy or, alternatively, subsidizing less-polluting firms.

²⁶ Stanley S. Surrey, "Tax Incentives as a Device for Implementing Government Policy: A Comparison with Direct Government Expenditures," *Harvard Law Review*, vol. 83, no. 4 (February 1970), pp. 705-738.

²⁷ See Frank Sammartino and Eric Toder, *Tax Expenditure Basics*, Tax Policy Center, January 22, 2020, at <https://www.taxpolicycenter.org/publications/tax-expenditure-basics/full>.

that are enacted after investment decisions have been made can create windfalls, where tax benefits accrue to taxpayers even though their behavior was not altered by the incentive. In other words, retroactive extensions reduce the effectiveness of temporary tax benefits.²⁸

Equity

A tax is considered to be fair when it contributes to a socially desirable distribution of the tax burden. Tax benefits—such as the extenders—can result in individuals or businesses with similar incomes and expenses paying differing amounts of tax, depending on whether they engage in tax-subsidized activities. This differential treatment is a deviation from the standard of horizontal equity, which requires that people in equal positions be treated equally.

Another component of fairness in taxation is vertical equity, which requires that tax burdens be distributed fairly among people with different abilities to pay. Extenders may be considered inequitable to the extent that they benefit those who have a greater ability to pay taxes. Those individuals with relatively less income and thus a reduced ability to pay taxes may not have the same opportunity to benefit from extenders as those with higher income.²⁹ The disproportionate benefit of tax expenditures to individuals with higher incomes reduces the tax system's progressivity, which is often viewed as a reduction in equity.

Simplicity

Extenders contribute to the complexity of the tax code and raise the cost of administering the tax system. Those costs, which can be difficult to isolate and measure, are rarely included in the cost-benefit analysis of temporary tax provisions. In addition to making the tax code more difficult for the government to administer, complexity also increases costs imposed on taxpayers. With complex incentives, taxpayers devote more time to tax preparation and are more likely to hire paid preparers or pay for tax preparation software. Further, tax extenders that are often extended retroactively create uncertainty, which can also create additional administrative costs for both taxpayers and tax collectors (e.g., the Internal Revenue Service).

Tax Provisions that Expired in 2021

Thirty-four temporary tax provisions expired at the end of 2021, although many of those provisions were energy-related and were modified and extended in the Inflation Reduction Act of 2022 (P.L. 117-169).³⁰ Of the provisions that were not extended in the IRA, and thus remain

²⁸ U.S. Congress, House Committee on Ways and Means, Subcommittee on Select Revenue Measures, *Temporary Policy in the Internal Revenue Code*, Testimony of Mark Mazur, 116th Cong., March 12, 2019, available at <https://waysandmeans.house.gov/legislation/hearings/temporary-policy-internal-revenue-code>.

²⁹ An example of the effect a tax benefit can have on vertical equity can be illustrated by considering two taxpayers claiming the itemized deduction for mortgage insurance premiums. Assume both taxpayers are married filing joint tax returns, itemize their deductions, and have \$1,000 in qualifying expenses. If one taxpayer has an income of \$70,000, and the other taxpayer has an income of \$90,000, the taxpayers would be in different tax brackets. The taxpayer with the lower income may fall in the 12% tax bracket, meaning the tax savings from the deduction would be \$120 (\$1,000 multiplied by 12%). The taxpayer with the higher income may fall in the 22% tax bracket, meaning the tax savings from the deduction would be \$220 (\$1,000 multiplied by 22%). Thus, the higher-income taxpayer, with presumably greater ability to pay taxes, receives a greater benefit than the lower-income taxpayer.

³⁰ Joint Committee on Taxation, *List of Expiring Federal Tax Provisions 2021-2031*, JCX-1-22, January 13, 2022. Six other tax provisions expired on September 30, 2021. These were the payroll tax credits for paid sick and paid family leave (and the related income tax credits for self-employed individuals), the employee retention tax credit, and the premium assistance for COBRA continuation coverage. For more information on the expired energy tax provisions that

expired, some have been extended as part of past tax extenders legislation (see **Table 1**). Other provisions were temporary tax policies enacted in COVID-19 pandemic and economic relief legislation (see **Table 2**).

Previous Tax Extender Provisions

Eighteen of the temporary tax provisions that expired at the end of 2021 were previously extended in tax extenders legislation. Most of these provisions had expired at the end of 2020, and were extended through 2021 in P.L. 116-260. There are fewer tax extenders that expired at the end of 2021 than has been the case in previous years, largely because P.L. 116-260 provided a longer-term extension for or made permanent a number of tax extender provisions. Additionally, many of the tax provisions that had expired at the end of 2021 were energy related, and were extended in the Inflation Reduction Act.³¹

Individual Provisions

Two individual provisions that were part of past tax extenders legislation expired at the end of 2021.³² The provision allowing homeowners to deduct mortgage insurance premiums was first enacted in 2006 (effective for 2007) as a temporary provision. Since being enacted, this provision has routinely been extended in tax extenders legislation. The health coverage tax credit (HCTC) was originally authorized by the Trade Act of 2002 (P.L. 107-210) without a termination date.³³ A termination date was later added in the Trade Adjustment Assistance Extension Act of 2011 (P.L. 112-40) and the credit has been more recently extended as part of tax extenders legislation.

Extending the two expired individual provisions for one year, from 2020 through 2021, was estimated to reduce federal tax revenue by \$0.2 billion over the 10-year budget window (FY2021-FY2030).³⁴ Retroactively making these two provisions permanent would reduce federal revenues by an estimated \$9.9 billion (FY2023-FY2032).³⁵

Business Provisions

Six business tax provisions that have been part of past tax extenders legislation expired at the end of 2021.³⁶ Five of these provisions had expired at the end of 2020 and were extended for one year in P.L. 116-260. A sixth provision, the temporary increase in limit on cover-over of rum excise tax

were retroactively extended, see CRS Report R47202, *Tax Provisions in the Inflation Reduction Act of 2022 (H.R. 5376)*, coordinated by Molly F. Sherlock.

³¹ **Appendix A** provides additional information on temporary tax provisions that were extended (or extended and modified) in the Inflation Reduction Act.

³² For more information, see CRS Report R46772, *Temporary Individual Tax Provisions ("Tax Extenders")*, coordinated by Molly F. Sherlock and Jane G. Gravelle.

³³ For more information, see CRS Report R44392, *The Health Coverage Tax Credit (HCTC): In Brief*, by Bernadette Fernandez.

³⁴ Joint Committee on Taxation, *Estimated Budget Effects Of The Revenue Provisions Contained In Rules Committee Print 116-68, The "Consolidated Appropriations Act, 2021,"* December 21, 2020, JCX-2-20.

³⁵ Congressional Budget Office, *The Budget and Economic Outlook: 2022 to 2032 - Revenue Projections, by Category*, May 2022, at <https://www.cbo.gov/data/budget-economic-data#7>.

³⁶ For more information, see CRS Report R46800, *Temporary Business-Related Tax Provisions Expiring 2021-2027 and Business "Tax Extenders,"* coordinated by Jane G. Gravelle and Molly F. Sherlock.

revenue (from \$10.50 to \$13.25 per proof gallon) to Puerto Rico and the Virgin Islands had previously been extended through 2021 in P.L. 115-123.

Extending the five expired provisions for one year, from 2020 through 2021, was estimated to reduce federal tax revenue by \$0.1 billion over the 10-year budget window (FY2021-FY2030).³⁷ Retroactively making these five provisions permanent would reduce federal revenues by an estimated \$3.0 billion (FY2023-FY2032) while extending and making permanent the temporary increase in limit on cover-over of rum excise tax revenue would reduce federal tax revenues by an estimated \$2.2 billion (FY2023-FY2032).³⁸

Energy Provisions

Most of the energy-related provisions that had expired at the end of 2021 were extended (or extended and modified) in the Inflation Reduction Act (see the **Appendix A** for further discussion). The two energy-related provisions that were not extended are the Indian coal production credit and the credit for two-wheeled electric vehicles.³⁹

Extending the two expired individual provisions for one year, from 2020 through 2021, was estimated to reduce federal tax revenue by less than \$50 million (FY2021-FY2030).⁴⁰ Retroactively making these two provisions permanent would reduce federal revenues by an estimated \$0.5 billion (FY2023-FY2032).⁴¹

COVID-19 Pandemic and Economic Relief Provisions

Many of the tax provisions enacted in response to the COVID-19 pandemic and subsequent economic conditions expired at the end of 2021. Temporary tax relief provisions that respond to unusual economic circumstances are not typically considered tax extenders. However, in the past, some provisions enacted in response to specific economic conditions have subsequently been extended multiple times, becoming tax extenders over time. Additional information on the temporary tax policies that were included in 2020 and 2021 COVID-19 relief and related legislation are discussed below in "Temporary Tax Policies Enacted in Response to the COVID-19 Pandemic."

³⁷ Joint Committee on Taxation, *Estimated Budget Effects Of The Revenue Provisions Contained In Rules Committee Print 116-68, The "Consolidated Appropriations Act, 2021,"* December 21, 2020, JCX-2-20.

³⁸ Congressional Budget Office, *The Budget and Economic Outlook: 2022 to 2032 - Revenue Projections, by Category*, May 2022, at <https://www.cbo.gov/data/budget-economic-data#7>.

³⁹ For background information on these provisions, see CRS Report R46451, *Energy Tax Provisions Expiring in 2020, 2021, 2022, and 2023 ("Tax Extenders")*, by Molly F. Sherlock, Margot L. Crandall-Hollick, and Donald J. Marples.

⁴⁰ Joint Committee on Taxation, *Estimated Budget Effects Of The Revenue Provisions Contained In Rules Committee Print 116-68, The "Consolidated Appropriations Act, 2021,"* December 21, 2020, JCX-2-20.

⁴¹ Congressional Budget Office, *The Budget and Economic Outlook: 2022 to 2032 - Revenue Projections, by Category*, May 2022, at <https://www.cbo.gov/data/budget-economic-data#7>.

Table 1. Previous Tax Extender Provisions that Expired at the End of 2021

(extensions in previous “tax extenders” legislation)

			Extending Legislation											
	Cost of 10-Year Extension (FY2023-FY2032 budget window; \$billions) ^a	Cost of 1-Year Extension in P.L. 116-260 (FY2021-2030 budget window; \$billions)	P.L. 116-260	P.L. 116-94	P.L. 115-123	P.L. 114-113	P.L. 113-295	P.L. 112-240	P.L. 111-312	P.L. 110-343	P.L. 109-432	P.L. 108-311	P.L. 107-147	P.L. 106-170
Individual Provisions														
Mortgage Insurance Premiums Treated As Qualified Residence Interest	8.8	0.2	X	X	X	X	X	X	X	b				
Credit for Health Insurance Costs of Eligible Individuals	1.1	-i-	X	X ^c		d		e						
Business Provisions														
Indian Employment Tax Credit	1.0	0.1	X	X	X	X	X	X	X	X	X	X	X	
Accelerated Depreciation for Business Property on Indian Reservations	1.6	-i-	X	X	X	X	X	X	X	X	X	X	X	
American Samoa Economic Development Credit	0.1	-i-	X	X	X	X	X	X	X	X	X			
Mine Rescue Team Training Credit	-i-	-i-	X	X	X	X	X	X	X	X				
Three-Year Depreciation for Racehorses Two Years or Younger	0.4	—	X	X	X	X	X							
Rum Cover-Over	2.2	f			X ^f	X	X	X	X	X	X	X	X	X
Energy Provisions														
Credit for Production of Indian Coal	0.5	-i-	X	X	X	X	X	X						
Credit for Two-Wheeled Plug-In Electric Vehicles	-i-	-i-	X	X	X	X		X						

Sources: Joint Committee on Taxation, *List of Expiring Federal Tax Provisions 2021-2031*, JCX-1-22, January 13, 2022; Joint Committee on Taxation, *Estimated Budget Effects Of The Revenue Provisions Contained In Rules Committee Print 116-68, The "Consolidated Appropriations Act, 2021,"* December 21, 2020, JCX-2-20; and Congressional Budget Office, *The Budget and Economic Outlook: 2022 to 2032 - Revenue Projections, by Category*, May 2022, at <https://www.cbo.gov/data/budget-economic-data#7>.

Notes: An "X" indicates that the provision was extended by the extending legislation listed in the column heading. An "-i-" indicates an estimated revenue loss of less than \$50 million over the 10-year budget window. A "—" indicates no revenue effect.

- a. Estimates in this column reflect the increase in the deficit that would occur from retroactive and permanent extension of the expired provision, assuming an enactment date of October 1, 2022.
- b. This provision was extended as part of the Mortgage Forgiveness Debt Relief Act of 2007 (P.L. 110-142).
- c. This provision expired at the end of 2019, and was extended for one year in P.L. 116-94.
- d. The Trade Preferences Extension Act of 2015 (P.L. 114-27) extended the HCTC through December 31, 2019.
- e. The Trade Adjustment Assistance Extension Act of 2011 (P.L. 112-40) added a December 31, 2013 termination date to the health coverage tax credit. The credit had first been enacted without a termination date in the Trade Act of 2002 (P.L. 107-210).
- f. The rum cover-over was extended through 2021 by the Bipartisan Budget Act of 2018 (P.L. 115-123).

Temporary Tax Policies Enacted in Response to the COVID-19 Pandemic

Several temporary tax provisions were enacted in response to the COVID-19 pandemic and subsequent economic recession. The Families First Coronavirus Response Act (P.L. 116-127) included employer payroll tax credits designed to offset the cost of paid sick and family leave that was separately required as part of the legislation.⁴² The credits expired September 30, 2021.⁴³ The Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) provided tax relief for individuals and businesses, with most of the relief provided for 2020.⁴⁴ In addition to extending tax extenders, the Consolidated Appropriations Act, 2021 (P.L. 116-260) provided additional tax relief in the "COVID-Related Tax Relief Act of 2020," enacted as Division N, and via other provisions and disaster relief provisions in Division EE, "The Taxpayer Certainty and Disaster Relief Act of 2020."⁴⁵ The American Rescue Plan Act of 2021 (ARPA; P.L. 117-2) included a number of temporary tax measures for COVID-19-related relief and economic stimulus.⁴⁶

Table 2. COVID-19 Pandemic and Economic Recovery Tax Policies: Provisions that Expired at the End of 2021⁴⁷

Provision	Description
Refundability and enhancement of the Child and Dependent Care Tax Credit	The child and dependent care credit (CDCTC) for workers with child and dependent care expenses for 2021 was enhanced by increasing the credit rate, increasing the cap on eligible expenses, and making the credit refundable. Enacted in P.L. 117-2 Budgetary Cost: \$8.0 billion (FY2021-FY2031)
Child Tax Credit modifications	The child tax credit was increased for low- and moderate-income taxpayers for 2021 by making the credit fully refundable, increasing the credit amount, and by increasing the maximum eligibility age. The law also provided that part of the credit be advanced before 2021 income tax returns were filed. ⁴⁸ Enacted in P.L. 117-2 Budgetary Cost: \$109.5 billion (FY2021-FY2031) ⁴⁹
Earned income tax credit: special rules for individuals without qualifying children	The earned income tax credit (EITC) for low-income workers without qualifying children for 2021 was expanded by increasing the credit rate, increasing the phaseout rate, modifying the range of income over which the credit phases in and phases out (creating a larger maximum credit), and modifying the age limits for eligibility. Enacted in P.L. 117-2 Budgetary Cost: \$11.9 billion (FY2021-FY2031)
Special premium assistance credit rule for individuals receiving Unemployment Compensation	Eligibility for and the amount of the premium tax credit were temporarily expanded for certain individuals receiving unemployment compensation (UC). The statute temporarily deemed individuals who received UC for any week in calendar year 2021 to have met the PTC income eligibility criteria. It also included a provision which disregarded any household income above 133% of the federal poverty line. Enacted in P.L. 117-2 Budgetary Cost: \$4.5 billion (FY2021-FY2031)
Increase in state low-income housing tax credit ceiling	An increased credit allocation authority was provided for buildings located in any qualified disaster zone. The increased amount was provided for 2021, and unused credit allocation authority may be carried over to 2022. Enacted in P.L. 116-260 Budgetary Cost: \$0.9 billion (FY2021-FY2030)
Increased exclusion for Employer-Provided Dependent Care Assistance	The maximum amount of qualifying child care expenses that eligible taxpayers can exclude from their income was temporarily increased from \$5,000 to \$10,500. Enacted in P.L. 117-2 Budgetary Cost: \$0.1 billion (FY2021-FY2031)

Non-itemizer charitable deduction	An above-the-line deduction for cash contributions of up to \$300 was available for taxpayers not itemizing deductions in 2020. For 2021, the non-itemizer deduction was \$300 (\$600 in the case of a joint return). Enacted in P.L. 116-136; extended in P.L. 116-260 Budgetary Cost: \$1.6 billion (FY2020-FY2030) and \$2.9 billion (FY2021-FY2030)
2021 recovery rebates to individuals	A one-time refundable credit against 2021 income taxes was advanced in the form of a rebate check, generally based on information from 2020 or 2019 income tax returns. The credit equaled \$1,400 for singles (\$2,800 for married filing jointly) plus \$1,400 per qualifying child. Credit phased out at a rate of 5% for adjusted gross income (AGI) over \$75,000 for single filers (\$112,500 for heads of household; \$150,000 for married filing jointly). Enacted in P.L. 117-250 Budgetary Cost: \$410.6 billion (FY2021-FY2031)
Modification of the limit on charitable contributions	This provision suspended the 50% of AGI limit (temporarily 60% for cash contributions through 2025) on cash contributions for individuals for 2020 and 2021. The corporate deduction limit was increased from 10% of taxable income to 25% for cash contributions. The limit on the deduction for contributions of food inventory was increased from 15% to 25% for both corporate and noncorporate businesses. The increased limits did not apply to contributions to private foundations and donor-advised funds. Enacted in P.L. 116-136; extended in P.L. 116-260 Budgetary Cost: \$1.1 billion (FY2020-FY2030) and \$0.6 billion (FY2021-FY2030)

⁴² For more information, see CRS Insight IN11243, *Tax Credit for Paid Sick and Family Leave in the Families First Coronavirus Response Act (H.R. 6201) (Updated)*, by Molly F. Sherlock.

⁴³ For more information, see CRS Report R47062, *Payroll Taxes: An Overview of Taxes Imposed and Past Payroll Tax Relief*, by Anthony A. Cilluffo and Molly F. Sherlock.

⁴⁴ For more information, see CRS Report R46279, *The Coronavirus Aid, Relief, and Economic Security (CARES) Act—Tax Relief for Individuals and Businesses*, coordinated by Molly F. Sherlock.

⁴⁵ For more information, see CRS Report R46649, *The COVID-Related Tax Relief Act of 2020 and Other COVID-Related Tax Provisions in P.L. 116-260*, by Molly F. Sherlock et al.

⁴⁶ For more information, see CRS Report R46680, *The American Rescue Plan Act of 2021 (ARPA; P.L. 117-2): Title IX, Subtitle G—Tax Provisions Related to Promoting Economic Security*, by Molly F. Sherlock, Margot L. Crandall-Hollick, and Jane G. Gravelle. Temporary pension-related provisions are described in CRS In Focus IF11766, *Pension Provisions in the American Rescue Plan of 2021*, by Elizabeth A. Myers and John J. Topoleski.

⁴⁷ In addition to the provisions listed here that expired at the end of 2021, there were tax credits for paid leave and an employee retention tax credit that both expired September 30, 2021. There were also payroll tax deferrals for 2020, with employers' deferred payroll taxes due in 2021 and 2022, and employees' deferred payroll taxes due in 2021. For more information, see CRS Report R47062, *Payroll Taxes: An Overview of Taxes Imposed and Past Payroll Tax Relief*, by Anthony A. Cilluffo and Molly F. Sherlock.

⁴⁸ The Joint Committee on Taxation's expiring provisions list includes the advance payment of the child tax credit as a separate expiring provision, as this modification appears in a separate section of the IRC than the other temporary changes to the child tax credit.

⁴⁹ This revenue estimate also includes the estimated budgetary cost reduction in tax revenue of permanently providing the child tax credit to residents of U.S. territories—either directly (e.g., for Puerto Rican residents) or by having the U.S. Treasury provide territorial governments with the funds to provide the child tax credit to their residents through their territorial tax systems. For more information, see CRS Report R46900, *The Expanded Child Tax Credit for 2021: Frequently Asked Questions (FAQs)*, by Margot L. Crandall-Hollick.

⁵⁰ Two earlier rounds of direct payments were issued in 2020 as advances on 2020 income tax returns. For additional information, see CRS Report R46415, *COVID-19 and Direct Payments: Overview and Resources*, coordinated by Margot L. Crandall-Hollick.

Prevention of partial plan termination	Provides that a qualified retirement plan will not be treated as having a partial termination during any plan year that includes the period beginning on March 13, 2020, and ending on March 31, 2021, if the number of active participants covered by the plan on March 31, 2021, was at least 80% as were covered by the plan on March 13, 2020. Enacted in P.L. 116-260 Estimated to have a negligible revenue effect.
Special rule for health and dependent care flexibly spending arrangements	Allowed employers to adopt certain temporary rules for 2020 or 2021 plan years. These rules were intended to assist employees enrolled in health or dependent care flexible spending accounts (FSAs) while allowing benefits to retain cafeteria plan status. Special rules included allowing rollover of account balances remaining at years' end; extending grace periods for up to 12 months; allowing terminated employees to use their unspent balances through the end of the year; increasing the age limit for qualifying children; and allowing plan participants to make prospective changes without regard to any change in status requirement. Enacted in P.L. 116-260 Revenue Increase: \$0.1 billion (FY2020-FY2030)
Earned income credit special rule for determining earned income	Temporarily allowed taxpayers to calculate their 2021 EITC using 2019 earned income if earned income in 2021 was less than earned income in 2019. For a joint return, 2019 earned income was the sum of both spouses' earned income for 2019. Enacted in P.L. 117-2 Revenue Reduction: \$3.2 billion (FY2021-FY2031)
Temporary extension of funding improvement and rehabilitation periods for multiemployer pension plans in critical and endangered status for 2020 or 2021	A plan sponsor for a multiemployer defined benefit pension plan in endangered or critical status for a plan year beginning in 2020 or 2021 can extend its rehabilitation period by five years. The plan's otherwise applicable funding improvement or rehabilitation period can be extended from 10 to 15 years (or from 15 to 20 years for plans in seriously endangered status). Enacted in P.L. 117-2 Cost estimate not available
Adjustments to funding standard account rules	Multiemployer defined benefit plans have 15 years to make up for plan underfunding resulting from experience losses (such as investment losses). This provision permitted two years of experience losses, applying to the first two plan years ending after February 29, 2020, to be amortized over 30 years instead of 15 years. Enacted in P.L. 117-2 Cost estimate not available
Source: Joint Committee on Taxation, <i>List of Expiring Federal Tax Provisions 2021-2031</i> , JCX-1-22, January 13, 2022, and cost estimates.	

Tax Cuts and Jobs Act (TCJA) Provisions

Certain provisions enacted in the TCJA were scheduled to take effect in future years. Some of those provisions became effective after 2021. The TCJA generally limited deductible interest to 30% of adjusted taxable income for businesses with gross receipts greater than \$25 million. TCJA provided that for taxable years beginning before January 1, 2022, adjusted taxable income could be computed without regard to any deduction allowable for depreciation, amortization, or depletion. This more generous computation expired at the end of 2021. Thus, beginning after 2021, certain taxpayers, particularly those in capital-intensive industries, may be more likely to have their business interest expense limited.

The TCJA provision requiring the amortization of research and experimental (R&E) expenditures applies after December 31, 2021.⁵¹ When this provision was enacted, it was a delayed tax increase.⁵² Thus, it is not a temporary provision and does not appear on the JCT's list of expiring federal tax provisions.⁵³ That said, similar to other tax extenders, absent legislative action, current law would result in 2022 tax policy that differs from 2021 tax policy. If the goal of a tax extenders package is to preserve 2021 tax policies and law, including a provision that would continue to allow R&E expensing might be considered. Continuing to allow R&E expensing, instead of requiring that such expenditures be amortized, would reduce federal tax revenues by an estimated \$153.2 billion (FY2023-FY2032).⁵⁴

Tax Provisions Expiring in 2022 Through 2025

Additional tax provisions are scheduled to expire at the end of 2022 and 2025 (see **Table 2**). In recent years, longer-term extensions of temporary provisions have tended to extend those provisions through 2025. This means that the expiration of those provisions will coincide with the expiration of the temporary changes to the individual income tax that were enacted in TCJA.

Provisions that are scheduled to expire at the end of 2022 include the temporary allowance of a 100% deduction for business meals, a provision that was enacted in support of the restaurant industry which was particularly hard-hit early in the COVID-19 pandemic.⁵⁵ A second provision expiring in 2022 is the 50% credit rate for the railroad track maintenance credit. There is a 40% permanent credit, but the 50% rate is scheduled to be reduced to 40% beginning in 2023.⁵⁶ A third provision, enacted in ARPA, provides for a temporary delay of designation of multiemployer plans as in endangered, critical, or critical and declining status, which can have implications for funding improvement and rehabilitation plans and excise taxes for plans failing to meet minimum funding standards.⁵⁷

⁵¹ This provision is not a temporary tax provision, but rather a delayed revenue raising provision included in the TCJA's business tax reforms. At the time of consideration, it was estimated that this provision would generate additional federal revenues of \$119.7 billion from FY2022 through FY2027. For more information, see CRS Insight IN11887, *Tax Treatment of Research Expenses: Current Law and Policy Issues*, by Gary Guenther.

⁵² The revenues from this provision contributed to meeting the revenue targets necessary to advance the TCJA under budget reconciliation. For additional information, see CRS Report R45092, *The 2017 Tax Revision (P.L. 115-97): Comparison to 2017 Tax Law*, coordinated by Molly F. Sherlock and Donald J. Marples.

⁵³ Joint Committee on Taxation, *List of Expiring Federal Tax Provisions 2021-2031*, JCX-1-22, January 13, 2022.

⁵⁴ Congressional Budget Office, *The Budget and Economic Outlook: 2022 to 2032 - Revenue Projections, by Category*, May 2022, at <https://www.cbo.gov/data/budget-economic-data#7>.

⁵⁵ For background, see CRS Insight IN11313, *Business Deductions for Entertainment and Meals*, by Donald J. Marples.

⁵⁶ The railroad track maintenance credit had been a long-standing tax extender. The provision was made permanent with a 40% tax credit rate in the Consolidated Appropriations Act, 2021 (P.L. 116-260), with a temporary 50% rate reduced to 40% after 2022.

⁵⁷ For more information, see CRS In Focus IF11766, *Pension Provisions in the American Rescue Plan of 2021*, by Elizabeth A. Myers and John J. Topoleski.

Table 3. Temporary Tax Provisions Expiring 2022 and 2025 (Excluding TCJA Provisions)

(extensions in previous “tax extenders” legislation)

			Extending Legislation											
	Cost of Extension (FY2023-FY2032 budget window; \$billions) ^a	Enacting or Most Recent Extending Legislation	P.L. 116-260	P.L. 116-94	P.L. 115-123	P.L. 114-113	P.L. 113-295	P.L. 112-240	P.L. 111-312	P.L. 110-343	P.L. 109-432	P.L. 108-311	P.L. 107-147	P.L. 106-170
Provisions Expiring in 2022														
Full deduction for restaurant business meals	n.a.	Provided in P.L. 116-260												
Railroad track maintenance credit (50% rate)	\$0.2	Credit made permanent in P.L. 116-260; 40% rate applies after 2022	X	X ^b										
Temporary delay of designation of multiemployer plans as in endangered, critical, or critical and declining status	n.a.	Provided in P.L. 117-2												
Provisions Expiring in 2025 (Non-TCJA)														
New Markets Tax Credit	\$3.3	5-year extension in P.L. 116-260	X	X ^c		X ^d	X	X	X	X	X			
Employer credit for paid family and medical leave	\$3.4	5-year extension in P.L. 116-260	X	X ^c										
Work Opportunity Tax Credit	\$11.0	5-year extension in P.L. 116-260	X	X ^c		X ^d	X	X ^e	X	^f	X	X	X	X
Exclusion for discharge of indebtedness on principal residence	n.a.	5-year extension in P.L. 116-260	X	X	X	X	X	X		X ^g				
Exclusion for certain discharges of student loans	\$0.4 ^h	Provided in P.L. 117-2												

	Cost of Extension (FY2023-FY2032 budget window; \$billions) ^a	Enacting or Most Recent Extending Legislation	Extending Legislation											
			P.L. 116-260	P.L. 116-94	P.L. 115-123	P.L. 114-113	P.L. 113-295	P.L. 112-240	P.L. 111-312	P.L. 110-343	P.L. 109-432	P.L. 108-311	P.L. 107-147	P.L. 106-170
Exclusion for certain employer payments of student loans	n.a.	5-year extension in P.L. 116-260 ⁱ	X											
Seven-year cost recovery for motorsports entertainment complexes	\$0.3	5-year extension in P.L. 116-260	X	X	X	X	X	X	X	X				
Special expensing rules for certain film, television, and theatrical productions	\$4.7	5-year extension in P.L. 116-260	X	X	X	X	X	X	X					
Look-through treatment of payments between related controlled foreign corporations under foreign personal holding company rules	\$9.9	5-year extension in P.L. 116-260	X	X ^c		X ^d	X	X	X	X				
Empowerment zone tax incentives	\$2.5	5-year extension in P.L. 116-260	X	X	X	X	X	X	X					
Oil Spill Liability Trust Fund financing rate	n.a.	5-year extension in P.L. 116-260	X	X ⁱ						X ^k	l			
Transfer of excess pension assets to retiree health and life insurance accounts	n.a.	4-year extension in P.L. 114-41												
Premium assistance credit enhancements	n.a.	Provided in P.L. 117-2; extended in P.L. 117-169												

Sources: Joint Committee on Taxation, *List of Expiring Federal Tax Provisions 2021-2031*, JCX-1-22, January 13, 2022; and Congressional Budget Office, *The Budget and Economic Outlook: 2022 to 2032 - Revenue Projections, by Category*, May 2022, at <https://www.cbo.gov/data/budget-economic-data#7>.

Notes: Airport and airway trust fund excise taxes are scheduled to expire on September 30, 2023, but are excluded from the table as these provisions have not historically been extended in tax extenders legislation. There are no temporary tax provisions scheduled to expire in 2024. Temporary tax provisions that have been included in tax extenders legislation and that had been scheduled to expire in 2023 were extended in P.L. 117-169.

- a. Estimates in this column reflect the increase in the deficit that would occur from permanent extension of the expired provision, assuming an enactment date of October 1, 2022. Estimates are not available for all provisions, as indicated by an n.a. in this column.
- b. This provision was extended for five years in P.L. 116-94. This legislation extended most temporary provisions for three years.
- c. This provision expired at the end of 2019, and was extended for one year in P.L. 116-94.
- d. This provision was extended for five years, through 2019, in P.L. 114-113.
- e. The expiration date of the Work Opportunity Tax Credit for qualified veterans was extended through December 31, 2012, as part of P.L. 112-56. Under P.L. 112-240, the expiration date was extended through December 31, 2013, for all eligible employees.
- f. The Work Opportunity Tax Credit was extended through August 31, 2011, as part of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2008 (P.L. 110-28).
- g. This provision was extended through 2012 in P.L. 110-343.
- h. This estimate was prepared before President Biden announced the one-time student debt relief policy in August 2022. For more information, see CRS Insight IN11997, *The Administration's Newly Announced Student Loan Debt Cancellation Policy*, by Alexandra Hegji.
- i. This provision was added to the tax code by the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).
- j. This provision expired at the end of 2018, and was extended for two years in P.L. 116-94.
- k. The Emergency Economic Stabilization Act of 2008 (P.L. 110-343) increased the tax rate to 8 cents per barrel through December 31, 2016, and to 9 cents per barrel starting in 2017. The rate was 9 cents per barrel when it expired in 2018.
- l. The Oil Spill Liability Trust Fund excise tax, which had expired at the end of 1994, was reinstated in 2006 in the Energy Policy Act of 2005 (P.L. 109-58).
- m. This transfer deadline, which follows the expiration date for transfers to be treated as qualified transfers under I.R.C. §420(b)(4), as redesignated by P.L. 112-141, §40241(a), has been amended several times. It has not generally been considered as a part of tax extenders legislation.

Beginning in 2023, 100% first-year bonus depreciation starts to phase down.⁵⁸ Through 2022, taxpayers are allowed to fully expense (deduct immediately) the cost of tangible assets with a depreciation life of 20 years or less under the Modified Accelerated Cost Recovery System (MACRS). The bonus depreciation amount is scheduled to decrease to 80% of the cost of qualified assets placed in service in 2023, 60% in 2024, 40% in 2025, 20% in 2026, and 0% in 2027 and thereafter. Eliminating the phase down and extending 100% first-year bonus depreciation would reduce federal tax revenues by an estimated \$250.3 billion (FY2023-FY2032).⁵⁹

Many temporary tax provisions have been extended through 2025. Consequently, their expiration coincides with the expiration of the TCJA's changes to individual income tax provisions. **Table 3** provides information on which of the non-TCJA provisions expiring at the end of 2025 have been part of past tax extenders legislation. In addition to provisions that have been a part of past tax extenders legislation, temporary enhancements to the premium assistance tax credit, first enacted in ARPA, were extended through 2025 in the IRA.⁶⁰

The Cost of Extending Expired and Soon-to-Expire Tax Provisions

As lawmakers consider whether to extend expired tax provisions beyond 2021 and expiring tax provisions past their termination date, cost is one factor. The Taxpayer Certainty and Disaster Tax Relief Act of 2020 (Division EE, P.L. 116-260) was estimated to reduce federal tax revenue by \$160.7 billion over the FY2021-FY2030 period.⁶¹ Of that total, \$9.6 billion (6%) was for disaster relief, \$103.8 billion (65%) for extension of expiring provisions, and \$47.3 billion (29%) for other tax provisions.

Of the \$103.8 billion associated with the extension of expiring provisions, nearly half of the cost, \$50.9 billion (49%), was associated with permanent extensions of temporary provisions. An additional \$39.0 billion (38%) was associated with extending provisions through 2025. The other short-term extensions of mostly energy-related provisions was estimated to reduce revenues by \$13.9 billion (13% of the total revenue reduction for extension of expiring provisions). Most of the provisions in this last category were energy related provisions extended in the IRA.

Extending the expired individual, business, and energy tax provisions would be expected to have a small effect on overall federal income tax revenues. Permanently extending these provisions would reduce federal tax revenue by an estimated \$16 billion from FY2023 through FY2032. That is less than 0.0003% of \$56.5 trillion in federal tax revenues expected over the period.⁶²

⁵⁸ For more information, see CRS Report RL31852, *The Section 179 and Section 168(k) Expensing Allowances: Current Law and Economic Effects*, by Gary Guenther.

⁵⁹ See Congressional Budget Office, *The Budget and Economic Outlook: 2022 to 2032 - Revenue Projections*, by Category, May 2022, at <https://www.cbo.gov/data/budget-economic-data#7>.

⁶⁰ For more information, see CRS Report R44425, *Health Insurance Premium Tax Credit and Cost-Sharing Reductions*, by Bernadette Fernandez.

⁶¹ Joint Committee on Taxation, *Estimated Budget Effects Of The Revenue Provisions Contained In Rules Committee Print 116-68, The "Consolidated Appropriations Act, 2021,"* December 21, 2020, JCX-2-20.

⁶² This is the baseline revenue projects in the Congressional Budget Office (CBO) May 2022 budget and economic outlook. It does not include the revenue effects of legislation enacted after May 2022, such as the Inflation Reduction Act. Congressional Budget Office, *The Budget and Economic Outlook: 2022 to 2032 - Revenue Projections*, by Category, May 2022, at <https://www.cbo.gov/data/budget-economic-data#7>.

Modifying the tax code to continue to allow expensing of research and experimentation expenditures or 100% first-year bonus depreciation would have a much larger effect on federal tax revenue. Over the FY2023-FY2032 period, extending these provisions beyond 2021 in the case of research and experimentation expensing, or 2022 in the case of 100% bonus depreciation, would reduce federal tax revenues by an estimated \$153.2 billion and \$250.3 billion, respectively. This is equivalent to about 0.7% of projected federal tax revenues expected over the period.⁶³

Recent Tax Extender Legislation

Before P.L. 116-260, tax extenders were most recently extended in the Taxpayer Certainty and Disaster Tax Relief Act of 2019 (Division Q, P.L. 116-94). This legislation, enacted in December 2019, extended most provisions through 2020. The tax incentives for biodiesel and renewable diesel and the credit for railroad track maintenance were extended through 2022. The total cost to extend expiring provisions in the Taxpayer Certainty and Disaster Tax Relief Act of 2019 was \$39.2 billion over the 10-year budget window.⁶⁴ The cost of extending the provisions that were extended through 2020 was \$22.9 billion, with an additional \$1.1 billion and \$15.2 billion associated with extending the railroad track maintenance and biodiesel and renewable diesel credits, respectively, through 2022.

Before P.L. 116-94, tax extenders were enacted as part of the Bipartisan Budget Act of 2018 (BBA18; P.L. 115-123).⁶⁵ This legislation, enacted in February 2018, extended tax provisions that had expired at the end of 2016 through the end of 2017. Before BBA18, tax extenders were addressed in the Protecting Americans from Tax Hikes Act of 2015 (PATH Act), enacted as Division Q of the Consolidated Appropriations Act, 2016 (P.L. 114-113). The PATH Act either extended or made permanent all of the 52 temporary tax provisions that had expired at the end of 2014.⁶⁶

The PATH Act, unlike other recent tax extender legislation, provided long-term extensions (through 2019) for a number of provisions, while making many other temporary tax provisions permanent.⁶⁷ In total, the tax extenders in P.L. 114-113 were estimated to reduce federal revenues by \$628.8 billion between FY2016 and FY2025.⁶⁸ Of that cost, nearly one-third (\$202.1 billion) was attributable to extensions of provisions that were scheduled to expire in 2017 (the reduced earnings threshold for the refundable portion of the child tax credit; the American Opportunity Tax Credit; and modifications to the Earned Income Tax Credit) and the two-year moratorium on

⁶³ CRS calculations based on Congressional Budget Office, *The Budget and Economic Outlook: 2022 to 2032 - Revenue Projections, by Category*, May 2022, at <https://www.cbo.gov/data/budget-economic-data#7>.

⁶⁴ Joint Committee on Taxation, *Estimated Budget Effects of the Revenue Provisions Contained in the House Amendment to the Senate Amendment to H.R. 1865, the Further Consolidated Appropriations Act, 2020 (Rules Committee Print 116-44)*, December 17, 2019, JCX-54-19R. Most provisions had expired at the end of 2017 and were extended for three years. However, several provisions had expired in 2018 or were scheduled to expire in 2019, and thus were extended for either two years or one year.

⁶⁵ For more information, see CRS Report R45347, *Tax Provisions That Expired in 2017 ("Tax Extenders")*, by Molly F. Sherlock.

⁶⁶ For more information, see CRS Report R43898, *Tax Provisions that Expired in 2014 ("Tax Extenders")*, by Molly F. Sherlock.

⁶⁷ For more information, see CRS Report R44677, *Tax Provisions that Expired in 2016 ("Tax Extenders")*, by Molly F. Sherlock.

⁶⁸ Joint Committee on Taxation, *Estimated Budget Effects of Division Q of Amendment #2 to the Senate Amendment to H.R. 2029 (Rules Committee Print 114-40), the "Protecting Americans from Tax Hikes Act of 2015," 114th Cong.*, December 16, 2015, JCX-143-15.

the medical device excise tax. Thus, after removing these provisions, the Joint Committee on Taxation (JCT) estimated the tax extender provisions would cost \$426.8 billion between FY2016 and FY2025.

Of the total cost of the tax extenders in P.L. 114-113, \$559.5 billion, or 89% of the total cost, was associated with permanent extensions. According to JCT estimates, the permanently extended provisions (provisions that had expired in 2014 and were made permanent in P.L. 114-113) cost \$361.4 billion. Of the total cost of tax extenders in P.L. 114-113, \$17.7 billion (or less than 3%) was for the two-year extension of provisions that had expired in 2014 through 2016.

The Tax Increase Prevention Act of 2014 (P.L. 113-295), passed late in the 113th Congress, made tax provisions that had expired at the end of 2013 available to taxpayers in the 2014 tax year. The act extended most (but not all) expiring tax provisions, and most of the provisions extended in P.L. 114-113 had been included in past tax extenders legislation. JCT estimated the tax extenders package enacted as P.L. 113-295 would cost \$41.6 billion over the 10-year budget window.⁶⁹ Earlier in the 113th Congress, the Senate Finance Committee had reported a two-year extenders package. The House had also passed legislation that would have made permanent certain expiring provisions. Ultimately, the 113th Congress passed and the President signed into law the one-year retroactive extenders legislation.⁷⁰

The American Taxpayer Relief Act (ATRA; P.L. 112-240) extended dozens of temporary provisions that had either expired at the end of 2011 or were set to expire at the end of 2012. The provisions that had expired at the end of 2011 were extended retroactively. JCT estimated the tax extenders package enacted as part of ATRA would cost \$73.6 billion over the 10-year budget window.⁷¹ Several provisions that were considered "traditional extenders"—that is, they had been extended multiple times in the past—were not extended under ATRA.⁷²

⁶⁹ Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 113th Congress*, JCS-1-15, March 2015, p. 248.

⁷⁰ For more information on tax extender legislation in the 113th Congress, see CRS Report R43898, *Tax Provisions that Expired in 2014 ("Tax Extenders")*, by Molly F. Sherlock.

⁷¹ Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in the 112th Congress*, JCS-2-13, February 2013, pp. 240-243.

⁷² For more information, see CRS Report R43124, *Expired and Expiring Temporary Tax Provisions ("Tax Extenders")*, by Molly F. Sherlock.

Appendix A. Temporary Energy Tax Provisions Extended in the IRA

Several tax provisions that had expired at the end of 2021 were energy-related and were extended (or modified and extended) in the Inflation Reduction Act of 2022 (IRA; P.L. 117-169). **Table A-1** provides information on extensions of temporary energy tax provisions in the IRA. For the energy tax provisions that had expired at the end of 2021, **Table A-2** includes information on previous extensions of those provisions in tax extender legislation.

Table A-1. Temporary Energy Tax Provisions in the IRA

billions of dollars

Provision	Changes in the IRA	Revenue Estimate (FY2022-FY2031)
Provisions that Expired in 2021		
Credit for Nonbusiness Energy Property	Extended through 2032 and modified	\$12.5
Credit for Qualified Fuel Cell Vehicles	Extended through 2032 (as clean vehicle credit) and modified	n.a. ^a
Credit for Alternative Fuel Refueling Property	Extended through 2032 and modified	\$1.7
Second Generation Biofuel Producer Credit	Extended through 2024; superseded by the clean fuel production credit (available through 2027)	\$0.1 ^b
Renewable Electricity Production Tax Credit (PTC)	Extended through 2024 and modified; superseded by the clean electricity production credit which phases out as emissions reduction targets are met	\$51.1 (PTC extension) \$11.2 (clean electricity PTC)
Credit for Energy-Efficient New Homes	Extended through 2032 and modified	\$2.0
Increased Coal Excise Tax Rate for Black Lung Disability Trust Fund	Permanent extension	-\$1.2 ^c
Incentives for Alternative Fuels and Alternative Fuel Mixtures	Extended through 2024; superseded by the clean fuel production credit (available through 2027)	n.a. ^d
Provisions Expiring in 2022		
Incentives for Biodiesel and Renewable Diesel	Extended through 2024; superseded by the clean fuel production credit (available through 2027)	n.a. ^d
Provisions Expiring in 2023		
Credit for Residential Energy Efficient Property	Extended through 2034 and modified	\$22.0
Renewable Energy Investment Tax Credit	Extended through 2024 and modified; superseded by the clean electricity investment credit which phases out as emissions reduction targets are met	\$14.0 (PTC extension) \$50.9 (clean electricity PTC)

Provision	Changes in the IRA	Revenue Estimate (FY2022-FY2031)
Five-Year Cost Recovery for Certain Energy Property	Extended for all ITC and PTC eligible property	\$0.6
Provisions Expiring in 2025		
Credit for Carbon Oxide Sequestration	Extended through 2032 and modified	\$3.2
Offshore Wind ITC	Superseded by the clean electricity investment credit which phases out as emissions reduction targets are met	n.a. ^e

Source: CRS analysis of P.L. 117-169, Joint Committee on Taxation, *List of Expiring Federal Tax Provisions 2021-2031*, JCX-1-22, January 13, 2022; and Joint Committee on Taxation, *Estimated Budget Effects of the Revenue Provisions of Title I – Committee on Finance, of an Amendment in the Nature of a Substitute to H.R. 5376, “An Act to Provide for Reconciliation Pursuant to Title II of S. Con. Res. 14,” as Passed by the Senate on August 7, 2022, and Scheduled for Consideration by the House of Representatives on August 12, 2022*, JCX-18-22, August 9, 2022.

Notes:

- The cost estimate for the clean vehicle credit includes electric vehicles and fuel cell vehicles. A stand-alone estimate for the cost of the credit for fuel cell vehicles is not available.
- Cost estimate only reflects the extension of the second generation biofuel producer credit and does not include the estimated cost of credits claimed for second generation biofuels qualifying for the clean fuels credit after 2024.
- Extended the increased excise tax rate on coal raises additional revenues (reflected here as a negative cost).
- Extending the biodiesel, renewable diesel, and alternative fuels tax incentives through 2024 is estimated to reduce federal tax revenues by \$5.6 billion. The clean fuel production credit available after 2024 and through 2027 is estimated to reduce federal tax revenues by \$2.9 billion.
- A stand-alone estimate for the offshore wind component of the credit is not available.

Table A-2. Energy Tax Provisions that Expired at the End of 2021 (Extended in the IRA)

(extensions in previous “tax extenders” legislation)

			Extending Legislation											
	Cost of 10-Year Extension (FY2023-FY2032 budget window; \$billions) ^a	Cost of 1-Year Extension in P.L. 116-260 (FY2021-2030 budget window; \$billions)	P.L. 116-260	P.L. 116-94	P.L. 115-123	P.L. 114-113	P.L. 113-295	P.L. 112-240	P.L. 111-312	P.L. 110-343	P.L. 109-432	P.L. 108-311	P.L. 107-147	P.L. 106-170
Energy Provisions														
Beginning-of-Construction Date for Renewable Power Facilities to Claim the Production Tax Credit (PTC) or the Investment Tax Credit (ITC) in Lieu of the PTC	11.5	1.7	X ^b	X ^b	X	X	X	X	c	d	c	d	d	d
Credit for Construction of Energy Efficient New Homes	2.3	0.3	X	X	X	X	X	X	X	X	X			
Credit for Section 25C Nonbusiness Energy Property	5.1	0.4	X	X	X	X	X	X	X ^e	X				
Alternative Fuel Vehicle Refueling Property	1.6	0.2	X	X	X	X	X	X	X	X				
Incentives for Alternative Fuel and Alternative Fuel Mixtures	2.5	0.3	X	X	X	X	X	X	X	X				
Second Generation Biofuel Producer Credit	-i-	-i-	X	X	X	X	X	X						
Alternative Motor Vehicle Credit for Qualified Fuel Cell Vehicles	0.1	-i-	X	X	X	X								
Black Lung Disability Trust Fund: Increased Coal Excise Tax	-1.5 ^f	-0.1 ^f	X	X ^g						X ^h				

Sources: Joint Committee on Taxation, *List of Expiring Federal Tax Provisions 2021-2031*, JCX-1-22, January 13, 2022; Joint Committee on Taxation, *Estimated Budget Effects Of The Revenue Provisions Contained In Rules Committee Print 116-68, The "Consolidated Appropriations Act, 2021,"* December 21, 2020, JCX-2-20; and Congressional Budget Office, *The Budget and Economic Outlook: 2022 to 2032 - Revenue Projections, by Category*, May 2022, at <https://www.cbo.gov/data/budget-economic-data#7>.

Notes: An "X" indicates that the provision was extended by the extending legislation listed in the column heading. An "-i-" indicates an estimated revenue loss of less than \$50 million over the 10-year budget window.

- a. Estimates in this column reflect the projected increase in the deficit that would have occurred from retroactive and permanent extension of the expired provision, assuming an enactment date of October 1, 2022. These estimates were prepared before the IRA was enacted.
- b. For wind, the PTC was extended at a reduced rate. The wind PTC had begun a phaseout starting in 2017.
- c. The renewable energy PTC placed-in-service deadline was extended as part of the EPACT05 (P.L. 109-58) and as part of ARRA (P.L. 111-5).
- d. Prior to 2013, the renewable energy PTC expiration was a placed-in-service deadline. Historically, this placed-in-service deadline has been regularly extended as part of tax extender legislation.
- e. This provision was extended at a reduced rate of 10%, with a maximum lifetime credit of \$500. During 2009 and 2010, a 30% credit of up to \$1,500 was available.
- f. The increased coal excise tax rate generates additional revenue.
- g. This provision expired at the end of 2018, and was extended for two years in P.L. 116-94.
- h. Increased coal excise tax rates were extended through 2018 in the Emergency Economic Stabilization Act of 2008 (EESA; P.L. 110-343). The previous extension of the increased excise tax rates was in the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203), which had extended the increased rates through 2013.

Appendix B. List of Previous Tax Extender Legislation

There is no formal definition of tax extenders legislation. Over time, tax extenders legislation has come to be considered legislation that temporarily extends a group of expired or expiring provisions. Using this characterization, below is a list of what could be considered tax extenders legislation. Using this list, tax extenders have been addressed 20 times. The package of provisions that is included in the tax extenders has changed over time, as Congress has added new temporary provisions to the code, and as certain provisions are either permanently extended, given temporary extension in other tax legislation, or allowed to expire.

- Consolidated Appropriations Act, 2021 (P.L. 116-260)
- Further Consolidated Appropriations Act, 2020 (P.L. 116-94)
- Bipartisan Budget Act of 2018 (P.L. 115-123)
- Consolidated Appropriations Act, 2016 (P.L. 114-113)
- Tax Increase Prevention Act of 2014 (P.L. 113-295)
- American Taxpayer Relief Act of 2012 (P.L. 112-240)
- Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312)
- Emergency Economic Stabilization Act of 2008 (P.L. 110-343)
- Tax Relief and Health Care Act of 2006 (P.L. 109-432)
- Working Families Tax Relief Act of 2004 (P.L. 108-311)
- Job Creation and Worker Assistance Act of 2002 (P.L. 107-147)
- Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106-170)
- Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (P.L. 105-277)
- Taxpayer Relief Act of 1997 (P.L. 105-34)
- Small Business and Job Protection Act of 1996 (P.L. 104-188)
- Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66)
- Tax Extension Act of 1991 (P.L. 102-227)
- Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508)
- Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239)
- Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647)

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