

Protecting Americans from Tax Hikes Act of 2015 ("PATH")

Congress has passed legislation called the Protecting Americans from Tax Hikes Act of 2015 ("PATH") as part of the Omnibus Spending Bill. It will extend many popular tax provisions that significantly impact individuals and businesses. The bill will be forwarded to the President for signature. This legislation retroactively extends business and individual tax provisions that expired at the end of 2014, and comes just before taxpayers and the IRS gear up for the 2015 tax filing season. Several of the expired provisions are being extended permanently and in many cases modified. Certain provisions are being extended for five years (through 2019), while other provisions are extended for only two years (2015 and 2016).

Some of the bill's key individual and business provisions are summarized below:

Individual Tax Extenders Made Permanent

- ***Extension of deduction for certain expenses of elementary and secondary school teachers*** - the \$250 (indexed for inflation) above-the-line tax deduction for teachers and other school professionals for expenses paid or incurred for books, supplies (other than non-athletic supplies for courses of instruction in health or physical education), computer equipment (including related software and service), other equipment, and supplementary materials used by the educator in the classroom. [I.R.C. § 62(a)(2)(D)]
- ***Extension of parity for employer-provided mass transit and parking benefits*** - the \$250 monthly maximum exclusion amount for transit passes and van pool benefits so that these transportation benefits match the exclusion for qualified parking benefits. [I.R.C. § 132(f)(2)]
- ***Extension of deduction of state and local general sales taxes*** - allows taxpayers to elect to take an itemized deduction for state and local general sales taxes in lieu of the itemized deduction permitted for state and local income taxes. [I.R.C. § 164(b)(5)]
- ***Extension of special rule for contributions of capital gain real property made for conservation purposes*** - the increased contribution limits and carry-forward period for amounts in excess of certain contribution limits for contributions of appreciated real property (including partial interests in real property) for conservation purposes. Certain individual and corporate farmers and ranchers also are eligible for the enhanced deduction. [I.R.C. § 170(b)(1)(E)]
- ***Extension of tax-free distributions from individual retirement plans for charitable purposes*** - the ability to make tax-free charitable contributions from an Individual Retirement Account (IRA) of up to \$100,000 per taxpayer, per tax year for taxpayers who are at least 70½. [I.R.C. § 408(d)(8)]

Individual Tax Extenders Extended Through 2016

- ***Extension of exclusion from gross income for discharge of qualified principal residence indebtedness*** - extends the relief for distressed homeowners allowing them to exclude from gross income the amount of mortgage debt on a personal residence discharged as part of a sale, short sale, etc. [I.R.C. § 108(a)(1)(E)]

- **Extension of above-the-line deduction for qualified tuition and related expenses** - extends the "above-the-line" tax deduction for qualified education expenses. The deduction is capped at \$4,000 for individual filers with an adjusted gross income (AGI) of \$65,000 or less (\$130,000 for joint filers) or \$2,000 for individual filers with AGI of \$80,000 or less (\$160,000 for joint filers). [I.R.C. § 222]
- **Extension of mortgage insurance premiums treated as qualified residence interest** - the ability of homeowners to treat mortgage insurance premiums (MIP) as deductible interest for purposes of the mortgage interest deduction. However, the deduction phases out ratably for taxpayers with an AGI of \$100,000 to \$110,000 (with each income amount reduced 50% for married taxpayers filing separately). [I.R.C. § 163(h)]

Business Tax Extenders Made Permanent

- **Extension of research credit.** [I.R.C. § 41]
- **Extension of mine rescue team training credit** - The credit for training mine rescue team members is extended through 2016. [I.R.C. § 45N]
- **Extension of work opportunity tax credit** - The Work Opportunity Credit, which provides businesses with a tax credit for hiring employees from specified groups that historically have had difficulty finding employment. [I.R.C. § 51]
- **Extension of 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements** - The special 15-year cost recovery period for certain leasehold improvements, restaurant buildings and improvements, and retail improvements. [I.R.C. § 168(e)(3)(E)]
- **Extension of enhanced charitable deduction for contributions of food inventory** - The provision allowing businesses to claim an enhanced deduction for contributions of food inventory of wholesome food for non-corporate business taxpayers is extended through 2014. [I.R.C. § 170(e)(3)(C)]
- **Extension of increased expensing limitations and treatment of certain real property as § 179 property** - increased \$500,000 expensing limit and \$2 million phase-out threshold, and an expanded definition of Sec. 179 property to include qualified real property. The bill also indexes the \$500,000 and \$2 million amounts for inflation beginning in 2016. It also treats air conditioning and heating units placed in service after 2015 as eligible for expensing. Finally, the bill eliminates the \$250,000 cap with respect to qualified real property beginning in 2016. [I.R.C. § 179]
- **Extension of basis adjustment to stock of S corporations making charitable contributions of property** - The provision allowing S corporation shareholders to take into account their pro rata share of charitable deductions even if such deductions would exceed such shareholder's adjusted basis in the S corporation. [I.R.C. § 1367]
- **Extension of reduction in S corporation recognition period for built-in gains tax** - The rule reducing to five years (rather than 10 years) the period for which an S corporation must hold its assets following conversion from a C corporation to avoid the tax on built-in gains on sales of assets. [I.R.C. § 1374(d)]
- **Extension Sec. 1202** - which provides an exclusion of 100% of gain on certain small business stock.

Business Tax Extenders Extended Through 2019

- **Extension of bonus depreciation** - Sec. 168(k), which provides a depreciation deduction equal to 50% of the adjusted basis of qualifying property in the first year it is placed in service (also known as bonus depreciation). The percentage phases down to 40% for property placed in service in 2018 and to 30% for property placed in service in 2019. The bill also modifies the AMT rules to increase the amount of unused AMT credits that can be claimed in lieu of bonus depreciation. Bonus depreciation will now be allowed for “qualified improvement property.” The bill also specifies that certain trees, vines, and fruit-bearing plants will be eligible for bonus depreciation when planted or grafted, rather than when placed in service. [I.R.C. § 168(k)]

Energy Tax Extenders Extended Through 2016

- **Extension of credit for non-business energy property** - The 10% credit (maximum of \$500) for purchases of non-business energy property is extended through 2016. [I.R.C. § 25C]
- **Extension of second generation biofuel producer credit** - The cellulosic biofuels producer credit is extended through 2016. [I.R.C. § 40(b)]
- **Extension of incentives for biodiesel and renewable diesel** - The \$1.00 per gallon production tax credit for biodiesel and the small agri-biodiesel producer credit of .10 cents per gallon is extended through 2016. The \$1.00 per gallon production excise tax credit for diesel fuel created from biomass also is extended through 2016. [I.R.C. § 40A]
- **Extension of credits with respect to facilities producing energy from certain renewable resources** - The production tax credit (PTC) for wind and certain other renewable sources of electricity is extended to facilities for which construction has commenced by the end of 2016. [I.R.C. § 45]
- **Extension of credit for energy-efficient new homes** - The credit for the construction of energy-efficient new homes is extended through 2016. [I.R.C. § 45L]
- **Extension of special allowance for second generation biofuel plant property** - The 50% bonus depreciation allowance for cellulosic biofuel facilities is extended through 2016. [I.R.C. § 168(l)(2)]
- **Extension of energy efficient commercial buildings deduction** - The “above-the-line” deduction for energy efficiency improvements to lighting, heating, cooling, ventilation, and hot water systems of commercial buildings is extended through 2016. [I.R.C. § 179D]
- **Extension of excise tax credits relating to certain fuels** - The \$0.50 per gallon alternative fuel tax credit and alternative fuel mixture tax credit is extended through 2016. [I.R.C. § 6426]

The bill also contains many other tax items, including delaying for two years the imposition of the so-called Cadillac health care tax under Sec. 4980I and the 2.3% medical device excise tax under Sec. 4191, which would not apply to sales during 2016 and 2017.