

**LIST OF EXPIRING FEDERAL TAX PROVISIONS  
2013-2023**

Prepared by the Staff  
of the  
JOINT COMMITTEE ON TAXATION



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## INTRODUCTION

This document,<sup>1</sup> prepared by the staff of the Joint Committee on Taxation, provides a listing of Federal tax provisions (other than those providing time-limited transition relief after the repeal of an underlying rule) that are currently scheduled to expire in 2013-2023 (with references to the applicable section of the Internal Revenue Code of 1986 or other applicable law). Expiring Federal tax provisions providing temporary disaster relief are separately listed in Part II of the document.

For purposes of compiling this list, the staff of the Joint Committee on Taxation considers a provision to be expiring if, at a statutorily specified date, the provision expires completely or reverts to the law in effect before the present-law version of the provision. Certain provisions terminate on dates that refer to a taxpayer's taxable year and not a calendar year. For these provisions, the expiration dates listed in this document apply with respect to calendar year taxpayers. The expiration dates of such provisions may differ, however, with respect to fiscal year taxpayers or taxpayers with short taxable years. Years in which there are no expiring provisions are not listed in the document.

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<sup>1</sup> This document may be cited as follows: Joint Committee on Taxation, *List of Expiring Federal Tax Provisions 2013-2023* (JCX-3-13), January 11, 2013. This document can be found on the Joint Committee on Taxation website at [www.jct.gov](http://www.jct.gov).

## I. FEDERAL TAX PROVISIONS<sup>2</sup> EXPIRING 2013-2023

### A. Provisions Expiring in 2013

Provision (Code section)	Expiration Date
1. Credit for certain nonbusiness energy property (sec. 25C(g))	12/31/13
2. Alternative fuel vehicle refueling property (non-hydrogen refueling property) (sec. 30C(g)(2))	12/31/13 <sup>3</sup>
3. Credit for two- or three-wheeled plug-in electric vehicles (sec. 30D(g))	12/31/13
4. Credit for health insurance costs of eligible individuals (sec. 35(a))	12/31/13
5. Second generation biofuel producer credit (formerly cellulosic biofuel producer credit) (sec. 40(b)(6)(H))	12/31/13

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<sup>2</sup> Not including temporary disaster relief Federal tax provisions, which are listed in Part II.

<sup>3</sup> The related provision of section 30C for hydrogen refueling property expires December 31, 2014.

<b>Provision (Code section)</b>	<b>Expiration Date</b>
6. Incentives for biodiesel and renewable diesel:	
a. Income tax credits for biodiesel fuel, biodiesel used to produce a qualified mixture, and small agri-biodiesel producers (sec. 40A)	12/31/13
b. Income tax credits for renewable diesel fuel and renewable diesel used to produce a qualified mixture (sec. 40A)	12/31/13
c. Excise tax credits and outlay payments for biodiesel fuel mixtures (secs. 6426(c)(6) and 6427(e)(6)(B))	12/31/13
d. Excise tax credits and outlay payments for renewable diesel fuel mixtures (secs. 6426(c)(6) and 6427(e)(6)(B))	12/31/13
7. Tax credit for research and experimentation expenses (sec. 41(h)(1)(B))	12/31/13
8. Determination of low-income housing credit rate for credit allocations with respect to nonfederally subsidized buildings (sec. 42(b)(2))	12/31/13
9. Beginning-of-construction date for renewable power facilities eligible to claim the electricity production credit or investment credit in lieu of the production credit (secs. 45(d) and 48(a)(5))	12/31/13
10. Credit for production of Indian coal (sec. 45(e)(10)(A)(i))	12/31/13
11. Indian employment tax credit (sec. 45A(f))	12/31/13
12. New markets tax credit (sec. 45D(f)(1))	12/31/13

<b>Provision (Code section)</b>	<b>Expiration Date</b>
13. Credit for certain expenditures for maintaining railroad tracks (sec. 45G(f))	12/31/13
14. Credit for construction of new energy efficient homes (sec. 45L(g))	12/31/13
15. Credit for energy efficient appliances (sec. 45M(b))	12/31/13
16. Mine rescue team training credit (sec. 45N)	12/31/13
17. Employer wage credit for activated military reservists (sec. 45P)	12/31/13
18. Work opportunity tax credit (sec. 51(c)(4))	12/31/13
19. Qualified zone academy bonds: allocation of bond limitation (sec. 54E(c)(1))	12/31/13
20. Deduction for certain expenses of elementary and secondary school teachers (sec. 62(a)(2)(D))	12/31/13
21. Discharge of indebtedness on principal residence excluded from gross income of individuals (sec. 108(a)(1)(E))	12/31/13
22. Parity for exclusion from income for employer-provided mass transit and parking benefits (sec. 132(f))	12/31/13
23. Treatment of military basic housing allowances under low-income housing credit (sec. 142(d))	12/31/13

<b>Provision (Code section)</b>	<b>Expiration Date</b>
24. Premiums for mortgage insurance deductible as interest that is qualified residence interest (sec. 163(h)(3))	12/31/13
25. Deduction for State and local general sales taxes (sec. 164(b)(5))	12/31/13
26. Three-year depreciation for race horses two years old or younger (sec. 168(e)(3)(A))	12/31/13
27. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements (secs. 168(e)(3)(E)(iv), (v), (ix), 168(e)(7)(A)(i) and (e)(8))	12/31/13
28. Seven-year recovery period for motorsports entertainment complexes (secs. 168(i)(15) and 168(e)(3)(C)(ii))	12/31/13
29. Accelerated depreciation for business property on an Indian reservation (sec. 168(j)(8))	12/31/13
30. Additional first-year depreciation for 50 percent of basis of qualified property (secs. 168(k)(1) and (2) and 460(c)(6)(B))	12/31/13 <sup>4</sup>
31. Election to accelerate AMT credits in lieu of additional first-year depreciation (sec. 168(k)(4))	12/31/13 <sup>5</sup>

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<sup>4</sup> December 31, 2015 for certain longer-lived and transportation property.

<sup>5</sup> December 31, 2015 for certain longer-lived and transportation property.

<b>Provision (Code section)</b>	<b>Expiration Date</b>
32. Special depreciation allowance for second generation biofuel plant property (sec. 168(l))	12/31/13
33. Special rules for contributions of capital gain real property made for conservation purposes (secs. 170(b)(1)(E) and 170(b)(2)(B))	12/31/13
34. Enhanced charitable deduction for contributions of food inventory (sec. 170(e)(3)(C))	12/31/13
35. Increase in expensing to \$500,000/\$2,000,000 and expansion of definition of section 179 property (secs. 179(b)(1) and (2) and 179(f))	12/31/13
36. Placed-in-service date for partial expensing of certain refinery property (sec. 179C(c)(1))	12/31/13 <sup>6</sup>
37. Energy efficient commercial buildings deduction (sec. 179D(h))	12/31/13
38. Election to expense advanced mine safety equipment (sec. 179E(a))	12/31/13
39. Special expensing rules for certain film and television productions (sec. 181(f))	12/31/13
40. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico (sec. 199(d)(8))	12/31/13

<sup>6</sup> The commencement-of-construction date for self-constructed property is December 31, 2009.



<b>Provision (Code section)</b>	<b>Expiration Date</b>
41. Deduction for qualified tuition and related expenses (sec. 222(e))	12/31/13
42. Tax-free distributions from individual retirement plans for charitable purposes (sec. 408(d)(8))	12/31/13
43. Special rule for sales or dispositions to implement Federal Energy Regulatory Commission (“FERC”) or State electric restructuring policy (sec. 451(i))	12/31/13
44. Modification of tax treatment of certain payments to controlling exempt organizations (sec. 512(b)(13)(E))	12/31/13
45. Treatment of certain dividends of regulated investment companies (“RICs”) (secs. 871(k)(1)(C) and (2)(C), and 881(e)(1)(A) and (2))	12/31/13
46. RIC qualified investment entity treatment under the Foreign Investment in Real Property Tax Act (“FIRPTA”) (sec. 897(h)(4))	12/31/13
47. Exceptions under subpart F for active financing income (secs. 953(e)(10) and 954(h)(9))	12/31/13
48. Look-through treatment of payments between related controlled foreign corporations under the foreign personal holding company rules (sec. 954(c)(6))	12/31/13
49. Special rules for qualified small business stock (sec. 1202(a)(4))	12/31/13

<b>Provision (Code section)</b>	<b>Expiration Date</b>
50. Basis adjustment to stock of S corporations making charitable contributions of property (sec. 1367(a)(2))	12/31/13
51. Reduction in S corporation recognition period for built-in gains tax (sec. 1374(d)(7))	12/31/13
52. Empowerment zone tax incentives: <sup>7</sup>	
a. Designation of an empowerment zone and of additional empowerment zones (secs. 1391(d)(1)(A)(i) and (h)(2))	12/31/13
b. Increased exclusion of gain (attributable to periods through 12/31/18) on the sale of qualified business stock of an empowerment zone business (secs. 1202(a)(2) and 1391(d)(1)(A)(i))	12/31/13
c. Empowerment zone tax-exempt bonds (secs. 1394 and 1391(d)(1)(A)(i))	12/31/13
d. Empowerment zone employment credit (secs. 1396 and 1391(d)(1)(A)(i))	12/31/13
e. Increased expensing under sec. 179 (secs. 1397A and 1391(d)(1)(A)(i))	12/31/13
f. Nonrecognition of gain on rollover of empowerment zone investments (secs. 1397B and 1391(d)(1)(A)(i))	12/31/13

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<sup>7</sup> The empowerment zone tax incentives may expire earlier than December 31, 2013 if a State or local government provided for an expiration date in the nomination of an empowerment zone, or the appropriate Secretary revokes an empowerment zone's designation. The State or local government may, however, amend the nomination to provide for a new termination date.

<b>Provision (Code section)</b>	<b>Expiration Date</b>
53. Incentives for alternative fuel and alternative fuel mixtures (other than liquefied hydrogen): <sup>8</sup>	
a. Excise tax credits and outlay payments for alternative fuel (secs. 6426(d)(5) and 6427(e)(6)(C))	12/31/13
b. Excise tax credits for alternative fuel mixtures (sec. 6426(e)(3))	12/31/13
54. Temporary increase in limit on cover over of rum excise tax revenues (from \$10.50 to \$13.25 per proof gallon) to Puerto Rico and the Virgin Islands (sec. 7652(f))	12/31/13
55. American Samoa economic development credit (sec. 119 of Pub. L. No. 109-432 as amended by sec. 756 of Pub. L. No. 111-312)	12/31/13

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<sup>8</sup> The related provisions for liquefied hydrogen fuel expire September 30, 2014.

## B. Provisions Expiring in 2014

Provision (Code section)	Expiration Date
1. Incentives for alternative fuel and alternative fuel mixtures involving liquefied hydrogen:	
a. Excise tax credits and outlay payments for liquefied hydrogen (secs. 6426(d)(5) and 6427(e)(6)(D))	9/30/14 <sup>9</sup>
b. Excise tax credits for liquefied hydrogen fuel mixtures (sec. 6426(e)(3))	9/30/14
2. Alternative motor vehicle credit for qualified fuel cell motor vehicles (sec. 30B(k)(1))	12/31/14
3. Alternative fuel vehicle refueling property (hydrogen refueling property) (sec. 30C(g)(1))	12/31/14 <sup>10</sup>
4. Automatic amortization extension for multiemployer defined benefit pension plans (sec. 431(d)(1)(C))	12/31/14 <sup>11</sup>
5. Additional funding rules for multiemployer defined benefit pension plans in endangered or critical status (sec. 432 and sec. 221(c) of Pub. L. No. 109-280)	12/31/14 <sup>12</sup>

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<sup>9</sup> Related provisions for non-hydrogen fuel expire December 31, 2013.

<sup>10</sup> The related provision of section 30C for non-hydrogen alternative fuel vehicle refueling property expires December 31, 2013.

<sup>11</sup> A corresponding provision, also expiring on December 31, 2014, is contained in section 304(d)(1)(C) of ERISA.

<sup>12</sup> A corresponding provision, also expiring on December 31, 2014, is contained in section 305 of ERISA.

<b>Provision (Code section)</b>	<b>Expiration Date</b>
6. Deemed approval of adoption, use or cessation of shortfall funding method for multiemployer defined benefit pension plans (secs. 201(b) and 221(c) of Pub. L. No. 109-280)	12/31/14

### C. Provisions Expiring in 2015

Provision (Code section)	Expiration Date
1. Airport and Airway Trust Fund excise taxes:	
a. All but 4.3 cents-per-gallon of taxes on noncommercial aviation kerosene and noncommercial aviation gasoline (sec. 4081(d)(2)(B))	9/30/15 <sup>13</sup>
b. Domestic and international air passenger ticket taxes and ticket tax exemption for aircraft in fractional ownership aircraft programs (secs. 4261(k)(1)(A)(ii) and 4261(j))	9/30/15
c. Air cargo tax (sec. 4271(d)(1)(A)(ii))	9/30/15

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<sup>13</sup> The 4.3-cents-per-gallon rate is permanent.

### D. Provisions Expiring in 2016

Provision (Code section)	Expiration Date
1. Highway Trust Fund excise tax rates: <sup>14</sup>	
a. All but 4.3 cents-per-gallon of the taxes on highway gasoline, diesel fuel, kerosene, and alternative fuels (secs. 4041(a) and 4081(d)(1))	9/30/16 <sup>15</sup>
b. Reduced rate of tax on partially exempt methanol or ethanol fuel (sec. 4041(m))	9/30/16 <sup>16</sup>
c. Tax on retail sale of heavy highway vehicles (sec. 4051(c))	9/30/16
d. Tax on heavy truck tires (sec. 4071(d))	9/30/16
2. Leaking Underground Storage Tank Trust Fund financing rate (secs. 4041(d)(4) and 4081(d)(3))	9/30/16
3. Credit for residential energy property (sec. 25D(g))	12/31/16
4. Increased credit for business solar energy property (sec. 48(a)(2)(A)(i)(II))	12/31/16

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<sup>14</sup> The Highway Trust Fund excise tax rates relating to the annual use tax on heavy highway vehicles (sec. 4481(f)) expire September 30, 2017.

<sup>15</sup> The 4.3-cents-per-gallon rate is permanent.

<sup>16</sup> After September 30, 2016, in the case of fuel none of the alcohol in which consists of ethanol, the rate is 2.15 cents-per-gallon. In any other case, the rate is 4.3 cents-per-gallon.

<b>Provision (Code section)</b>	<b>Expiration Date</b>
5. Credit for hybrid solar lighting systems (sec. 48(a)(3)(A)(ii))	12/31/16
6. Energy credit for geothermal heat pump property, small wind property, and combined heat and power property (secs. 48(a)(3)(A)(vii), 48(c)(4), and 48(c)(3)(A)(iv))	12/31/16
7. Credit for business installation of qualified fuel cells and stationary microturbine power plants (secs. 48(c)(1)(D) and (c)(2)(D))	12/31/16



### E. Provisions Expiring in 2017

Provision (Code section)	Expiration Date
1. Child credit: reduce the earnings threshold from \$10,000 to \$3,000 for refundable portion of the credit (sec. 24(d)(4))	12/31/17
2. American opportunity tax credit (sec. 25A(i))	12/31/17
3. Earned income tax credit:	
a. Credit percentage of 45 percent for three or more qualifying children (sec. 32(b)(3)(A))	12/31/17
b. Increase beginning and ending income levels for joint returns by \$5,000 indexed after 2009 (sec. 32(b)(3)(B))	12/31/17
4. Highway Trust Fund excise tax rates: <sup>17</sup>	
a. Annual use tax on heavy highway vehicles (sec. 4481(f))	9/30/17
5. Oil Spill Liability Trust Fund financing rate (sec. 4611(f)(2))	12/31/17

<sup>17</sup> Other Highway Trust Fund excise tax rates expire September 30, 2016.

## F. Provisions Expiring in 2018

Provision (Code section)	Expiration Date
1. Black Lung Disability Trust Fund: increase in amount of excise tax on coal (sec. 4121(e)(2))	12/31/18 <sup>18</sup>

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<sup>18</sup> The increased amount of the excise tax on coal terminates the earlier of this date or the first December 31 as of which there is no balance of repayable advances made to the Black Lung Disability Trust Fund and no unpaid interest on such advances.

### G. Provisions Expiring in 2020

Provision (Code section)	Expiration Date
1. Placed-in-service date for eligibility for the credit for production from certified advanced nuclear power facilities (sec. 45J(d)(1)(B))	12/31/20

## H. Provisions Expiring in 2021

<b>Provision (Code section)</b>	<b>Expiration Date</b>
1. Surtax on fuel used in aircraft in a fractional ownership program (sec. 4043)	9/30/21
2. Transfer of excess pension assets to retiree health and life insurance accounts (sec. 420(b)(5))	12/31/21

**II. TEMPORARY DISASTER RELIEF FEDERAL TAX PROVISIONS  
EXPIRING 2013-2023**

**A. Temporary Disaster Relief Federal Tax Provisions Expiring in 2013**

<b>Provision (Code section)</b>	<b>Expiration Date</b>
1. New York Liberty Zone: tax-exempt bond financing (sec. 1400L(d)(2)(D))	12/31/13
2. Extension of replacement period for nonrecognition of gain for areas damaged by 2008 Midwestern severe storms, tornados and flooding (sec. 702 of Division C of Pub. L. No. 110-343)	12/31/13