

# 2018 Legislation

## More Law Changes From Congress – Early 2018

- **P.L. 115-120 (1/22/18)**
  - Funding gov't
  - A few ACA changes
- **P.L. 115-123 (2/9/18)**
  - Funding gov't + CHIP through FY2023
  - Retroactive reinstatement of provisions that expired at 12/31/16
- **P.L. 115-141 (3/23/18)**
  - Fund gov't to 9/30/18
  - Tech corrections to partnership audit regime
  - Fix §199A grain glitch

## P.L. 115-120 (1/22/18)

- Fund gov't to 2/8/18 (rather than 1/19/18)
- Suspend Certain ACA Taxes
  1. Medical Device Excise Tax (§4191)
    - Extends the 2016 through 2017 suspension through 2019.
  2. Cadillac Tax (§4980I)
    - Extends suspension through 2021 (had been through 2019)
  3. Annual Fee on Health Insurance Providers (§9010(j) of ACA)
    - Suspended for 2019

<https://www.congress.gov/bill/115th-congress/house-bill/195>

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## P.L. 115-123 (2/9/18)

p. 4-2, 5-4

**H.R.1892 - Bipartisan Budget Act of 2018**  
 115th Congress (2017-2018) | [Get alerts](#)

LAW
Hide Overview ✕

Sponsor:	<a href="#">Rep. Larson, John B. [D-CT-1]</a> (Introduced 04/04/2017)
Committees:	House - Judiciary   Senate - Judiciary
Committee Reports:	<a href="#">H. Rept. 115-119</a>
Latest Action:	<span style="border: 2px solid red; border-radius: 50%; padding: 2px;">02/09/2018 Became Public Law No: 115-123.</span> <a href="#">(All Actions)</a>

- Fund gov't through 3/23/18 (rather than 2/8/18)
- 30+ items expired at 12/31/16 renewed one year
- Disaster relief – **2017** CA wildfires declared disaster area, various relief for IRA distributions, employer retention credit, others
- Several other changes – see outline links
  - <https://www.congress.gov/bill/115th-congress/house-bill/1892/>
  - <https://www.jct.gov/publications.html?func=startdown&id=5061>
  - <https://www.journalofaccountancy.com/news/2018/feb/tax-provisions-budget-act-201818370.html>

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# P.L. 115-123 – Extenders

IRS had to retroactively update 2017 forms and computers

Affected 14 forms and some pubs.

## A. Tax Relief for Families and Individuals

1. Extension of exclusion from gross income of discharge of indebtedness on qualified principal residence indebtedness (sunset 12/31/17).....
2. Extension of mortgage insurance premiums treated as qualified residence interest (sunset 12/31/17).....
3. Extension of above-the-line deduction for qualified tuition and related expenses (sunset 12/31/17).....

## B. Incentives for Growth, Jobs, Investment, and Innovation

1. Extension of Indian employment tax credit (sunset 12/31/17).....
2. Extension of railroad track maintenance credit (sunset 12/31/17).....
3. Extension of mine rescue team training credit (sunset 12/31/17).....
4. Extension of classification of certain race horses as 3-year property (sunset 12/31/17).....
5. Extension of 7-year recovery period for motorsports entertainment complexes (sunset 12/31/17).....
6. Extension of accelerated depreciation for business property on an Indian reservation (sunset 12/31/17).....
7. Extension of election to expense mine safety equipment (sunset 12/31/17).....
8. Extension of special expensing rules for certain film, television, and live theatrical productions (sunset 12/31/17).....
9. Extension of deduction allowable with respect to income attributable to domestic production activities in Puerto Rico (sunset 12/31/17).....
10. Extension of special rate for certain timber gain (sunset 12/31/17).....
11. Extension of empowerment zone tax incentives (sunset 12/31/17).....
12. Extension of American Samoa economic development credit (sunset 12/31/17).....

<https://www.irs.gov/individuals/update-on-extender-legislation>

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## C. Incentives for Energy Production and Conservation

1. Extension of credit for section 25C nonbusiness energy property (sunset 12/31/17).....
2. Extension and modification of credit for residential energy efficient property (sunset 12/31/21).....
3. Extension of alternative motor vehicle credit for qualified fuel cell motor vehicles (sunset 12/31/17).....
4. Extension of credit for alternative fuel vehicle refueling property (sunset 12/31/17).....
5. Extension of credit for two-wheeled plug-in electric vehicles (sunset 12/31/17).....
6. Extension of second generation biofuel producer credit (sunset 12/31/17).....
7. Extension of biodiesel and renewable diesel incentives - extend present-law income tax credits, excise tax credit, and outlay payments (sunset 12/31/17).....
8. Extension of production credit for Indian coal facilities (sunset 12/31/17).....
9. Extension of beginning-of-construction date for non-wind renewable power facilities eligible to claim the electricity production credit or investment credit in lieu of the production credit (sunset 12/31/17).....

10. Extension of credit for construction of energy-efficient new homes (sunset 12/31/17).....
11. Extension and phaseout of the section 48 energy investment tax credit (sunset 12/31/21).....
12. Five-year cost recovery for certain energy property (sunset 12/31/21).....
13. Extension of special depreciation allowance for second generation biofuel plant property (sunset 12/31/17).....
14. Extension of energy efficient commercial buildings deduction (sunset 12/31/17).....
15. Extension of special rule for sales or dispositions to implement Federal Energy Regulatory Commission ("FERC") or State electric restructuring policy for qualified electric utilities (sunset 12/31/17).....
16. Extension of excise tax credits and outlay payments for alternative fuel, and excise tax credits for alternative fuel mixtures (sunset 12/31/17).....
17. Extension of Oil Spill Liability Trust Fund financing rate (sunset 12/31/18).....

## D. Modifications of Energy Incentives

1. Modifications of credit for production from advanced nuclear power facilities.....

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# Misc. (but significant) Changes in PL 115-123

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| <ol style="list-style-type: none"> <li>1. Extension of 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 (sunset 12/31/21) [4][9].....</li> <li>2. Extend the limitations period with respect to excluding amounts received by wrongfully incarcerated individuals....</li> <li>3. Individuals held harmless on improper levy on retirement plans.....</li> <li>4. Modification of user fee requirements for installment agreements.....</li> <li>5. Simplified filing requirements for individuals 65 years of age and older.....</li> <li>6. Unify the tax treatment of awards to whistleblowers.....</li> <li>7. Clarification of whistleblower awards [4].....</li> <li>8. Excise tax on investment income of private colleges and universities limited to institutions with at least 500 tuition paying students.....</li> <li>9. Exception to private foundation excess business holding tax for independently-operated philanthropic business holdings.....</li> </ol> | <ol style="list-style-type: none"> <li>10. State beverage alcohol regulation (sunset 12/31/19).....</li> <li>11. Simplification of rules regarding records, statements, and returns (sunset 12/31/19).....</li> <li>12. Modification of rules relating to hardship withdrawals from cash or deferred arrangements.....</li> <li>13. Modification of rules governing hardship distributions.....</li> <li>15. All Puerto Rico low-income communities treated as qualified opportunity zone.....</li> <li>16. Treatment of citizens or residents of the United States living abroad in support of Armed Forces in combat zone...</li> <li>17. Treatment of foreign persons for returns relating to payments made in settlement of payment card and third party network transactions.....</li> <li>18. Repeal the eight percent increase in the amount of any required installment of corporate estimated tax otherwise due in July, August, or September of 2020 for corporations with assets of at least \$1 billion.....</li> <li>19. Enhancement of carbon dioxide sequestration credit.....</li> </ol> |
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<https://www.ict.gov/publications.html?func=startdown&id=5061>

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## PL 115-123 (2/9/18) Changes to §911 Exclusion, effective starting 2018

- ❑ Modifies “tax home” for workers of certain contractors that support Armed Forces in designated combat zones.
- ❑ As revised: (3) TAX HOME. The term “tax home” means, with respect to any individual, such individual’s home for purposes of section 162(a)(2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States, *unless such individual is serving in an area designated by the President of the United States by Executive order as a combat zone for purposes of section 112 in support of the Armed Forces of the United States.*

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## More info from IRS

- IR-2018-173 (8/24/18)
  - No other exclusion can be applied, deduction or credit related to the income.
  - As before, n/a to federal employees or members of military, although service members in combat zones qualify for combat pay exclusion.
  - Also see Pub 54, *Tax Guide for U.S. Citizens and Resident Aliens Abroad*.

<https://www.irs.gov/newsroom/new-law-makes-clear-combat-zone-contract-workers-qualify-for-foreign-earned-income-exclusion>

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## PL 115-123 Creates Form 1040SR

- Simplified filing requirements for individuals 65 years of age and older
- Includes
  - Social Security income
  - Retirement plan distributions
  - Interest and dividend income
  - Capital gains/losses
- No income limit on using it
- Effective for 2019 tax years
- Has been proposed before (such as HR 2721 (115<sup>th</sup> Congress))

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## PL 115-123 Amends TCJA

- PL 115-97, sec. 13701 created new excise tax on investment income of private colleges and universities if have at least 500 students.
  - PL 115-123 adds back “tuition-paying” students that was removed from PL 115-97 due to budget reconciliation rules.
  - IRC §4968(b)
- Others as well, such as Opportunity Zones for Puerto Rico

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## JCT Releases Expiring Provisions Update after P.L. 115-123 (2/9/18)

- JCT, Federal Tax Provisions Expired In 2017, JCX-5-18 (3/9/18)
  - Provides estimate of cost to make the 26 items that were extended for 2017, permanent.
    - Cost is \$92.5 billion over 10 years.
    - 2 items extended by PL 115-123 ignored because repealed by TCJA (such as §199 Puerto Rico item)
    - Some of the items had been extended up to 9 times (accelerated depreciation on Indian reservation).
  - <https://www.jct.gov/publications.html?func=startdown&id=5062>

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# Ways & Means Hearing on Extenders

## 3/14/18 – Post Tax Reform Evaluation of Recently Expired Tax Provisions

- 21 witnesses, mostly those in support of a particular expired item.
- A few policy witnesses
  - General sentiment – credits are subsidies, poor tax policy and if needed, should move outside of tax system for better oversight
  - Heritage Foundation on §222 above the line tuition deduction – helps enhance future earnings capacity so supportable. “All 13 of the energy tax provisions are unwarranted tax preferences.”
  - Committee for a Responsible Federal Budget – “extenders are generally poor policy” + “with the dire fiscal situation, we can’t keep debt-financing tax extenders.
  - Institute on Taxation and Economic Policy witness – 3 questions for evaluating provisions:
    1. Does the tax provision serve a compelling public interest?
    2. Does the tax provision achieve a compelling public interest in a cost-effective way?
    3. If the passage of a tax provision is worthwhile, how should it be paid for?

<https://waysandmeans.house.gov/event/hearing-post-tax-reform-evaluation-recently-expired-tax-provisions/>

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## P.L. 115-141 (3/23/18), Consolidated Appropriations Act, 2018

- Funds gov’t to end of FY2018
- Some technical corrections to pre-2017 legislation
  - Including for partnership audit regime.
- A few TCJA changes including “grain glitch” (modified §199A(a) and (g)).
- Some deadwood cleanup.
- <https://www.congress.gov/bill/115th-congress/house-bill/1625/>

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# Government Funding through 12/7/18

P.L. 115-245 (9/28/18; HR 6157)

- <https://www.congress.gov/bill/115th-congress/house-bill/6157/>



## H.J.Res. 143, Continuing Resolution (P.L. 115-298 (12/7/18))

### **Funds government through 12/21/18**

- 12/6 – passed in House and Senate
- 12/7 – President signed
- <https://www.congress.gov/bill/115th-congress/house-joint-resolution/143/>



# Government Shutdown on 12/22/18 <sup>Supplement</sup>

“In enacting the TCJA, Congress provided the Treasury Department with funds that will remain available until September 30, 2019. See Consolidated Appropriations Act, 2018, Pub. L. No.115-141, Div. E, Title I, § 113 (Mar. 23, 2018). Thus, some implementation activities would not be affected by a lapse in appropriations in Fiscal Year 2019. Additional activities would continue to protect incoming tax revenues during the upcoming filing season. (Some of these functions could also be deemed necessary to support the functions funded by two-year TCJA funds.) The excepted positions required to carry out identified activities to implement the TCJA for the upcoming Filing Season are identified within each Business Unit plan where these activities are carried out. Two-year TCJA funds are expended based on TCJA implementation work performed by employees and tracked via unique TCJA internal order codes.”

INTERNAL REVENUE SERVICE



Fiscal Year 2019  
 LAPSED APPROPRIATIONS CONTINGENCY PLAN  
 (Non-Filing Season - December 8-31, 2018)

November 29, 2018