



STRETCHED TO THE LIMIT: A SAMPLING OF TAX EXTENDERS THAT SHOULD BE ENDED (OR SUBSTANTIALLY REFORMED)

Congress is considering whether to renew 55 temporary tax breaks – known as tax extenders – that expired at the end of 2013. The cost of renewing these tax breaks is a staggering \$410 billion to \$690 billion over 10 years, according to the [Congressional Budget Office](#) (CBO), or \$40 billion to \$70 billion a year.¹ About 90 percent of the cost of these tax breaks benefits corporations.

Tax extenders come in different forms and sizes. But the worst ones all share one feature: they exclusively benefit big corporations and wealthy individuals, wasting money that could be used to fix roads, build schools, find medical cures – or reduce the deficit. Below is a sampling of some of the worst of these special-interest tax breaks.

GENERAL ELECTRIC, WALL STREET & THE ACTIVE FINANCING EXCEPTION

[\\$62.5 Billion over 10 years](#)² [Extended since 1997](#)³

A huge loophole in federal tax law allows companies to avoid paying U.S. taxes on profits they earn outside the United States until the income is brought back home—a tax break called “deferral.” But certain financial income like interest, dividends, rents and royalties can be easily manipulated to make profits earned in America look as if they were generated offshore. So this passive income—called in tax-code-speak “Subpart F” income—was made [ineligible for deferral and instead immediately subject to U.S. corporate income taxes](#)⁴ (less any taxes paid to the country where the profits were claimed to be earned).

The “active financing exception” is an exception to Subpart F. This costly “exception to the rule” allows Wall Street investment banks, insurance companies and other multinationals with big financing arms, like General Electric, to [dodge billions of dollars in taxes simply by claiming that U.S.-based financing income is actually being generated offshore](#).⁵ *It’s time we took exception to this resource-draining tax break.*

LOOKING BAD: CFC LOOK-THROUGH RULE SHIFTS PROFITS OFFSHORE

[\\$17.5 Billion over 10 years](#)⁶ [Extended since 2006](#)⁷

American corporations with multiple offshore subsidiaries—so-called “controlled foreign corporations” (CFCs)—often shift money from country to country in order to avoid foreign

taxes. [This profit-shuffling might trigger U.S. taxes if not for special loopholes like the “look-through rule.”](#)⁸ It makes it possible for multinational corporations to avoid taxation on billions of dollars in profits—money that was made somewhere, but thanks to accounting tricks, [often for tax purposes exists nowhere.](#)⁹ *It’s time to rule the “Look-Through Rule” out of bounds.*

EXPERIMENT IN TAX AVOIDANCE: CREDIT FOR RESEARCH AND EXPERIMENTATION

[\\$66 Billion over 10 years](#)¹⁰ [Extended since 1981](#)¹¹

Prompting businesses to conduct more research and experimentation may be a good idea, but this tax loophole as currently designed is not. Corporations can take the Research & Experimentation (R&E) tax credit for innovations as frivolous as new food flavors and textures.¹²

The R&E tax credit [subsidizes some research that companies likely would have done anyway.](#)¹³ Although the credit is only applicable to R&E expenditures above a “base amount,” companies can manipulate estimates of the base figures in order to gain a maximum tax subsidy. Worst of all, [firms are allowed to take it retroactively](#), meaning they are being rewarded for performing research they obviously thought valuable even in the absence of a tax incentive.¹⁴ *No further research is needed on this one: the current R & E tax credit is an experiment gone wrong and needs to be overhauled.*

RACING TO THE BANK: THE NASCAR TAX CREDIT

[\\$540 Million over 10 years](#)¹⁵ [Extended since 2004](#)¹⁶

Acceleration is key to successful auto racing—and to successful tax avoidance – for NASCAR owners. Businesses are allowed to deduct costs from income before paying taxes. “Operating expenses”—the cost of goods or services that get used up right away, like salaries, supplies and utilities—can be deducted in their entirety the year they’re incurred. But “capital expenses”—the cost of long-term investments like new buildings and equipment—must be deducted (“depreciated”) piecemeal over time, to reflect their continued usefulness and slow loss of value.

The faster you can depreciate an asset—the faster you can deduct the full cost—the faster you cut your taxes. The NASCAR tax credit allows motor track owners to accelerate the depreciation of their tracks, [writing off the full cost in just seven years, instead of up to 39 years like other business property.](#)¹⁷ *America’s families are hitting the wall because of government budget cuts, but the owners of NASCAR racetracks are speeding ahead, thanks to their special tax extender.*

FINANCIAL BLOCKBUSTER: SPECIAL EXPENSING FOR FILM & TV PRODUCTION

[\\$1.2 Billion over 10 Years](#)¹⁸ [Extended since 2004](#)¹⁹

You wouldn’t think you’d need to reward Hollywood for working in Hollywood. But that’s just what special expensing for film and television production does: it allows studios to [immediately](#)

[deduct from their taxes up to \\$15 million of the expense of making movies and TV shows in the United States](#)²⁰—where they usually make them anyway. *Who needs a great script when you can rely on the tax code to guarantee a hit?*

THOROUGHbred LOOPHOLE: DEPRECIATION CLASSIFICATION FOR CERTAIN RACE HORSES \$496 Million over 10 years²¹ [Extended since 2008](#)²²

Depreciable business property usually means something like a bulldozer or factory—not something that can trot over and eat a carrot from your hand. But wealthy horse breeders spend a lot of money on their property-on-the-hoof, and the faster they can deduct that cost, the faster they can save on their taxes. So when the two U.S. senators (including the Senate Minority Leader, Mitch McConnell) from the state that hosts the Kentucky Derby offered up legislation [to speed up depreciation of horses from seven years to just three](#),²³ it was off to the races. *Unfortunately, in this legislative horsing around the needs of the middle class come in dead last.*

ENDNOTES

¹ Congressional Budget Office (CBO), “Individual Income Tax Receipts and the Individual Tax Base—February 2014 Baseline” (Feb. 4, 2014), as modified by Americans for Tax Fairness. <http://bit.ly/1jbDLDM> The full ten-year cost is calculated from 2014 through 2023. The \$691 billion figure includes the cost of bonus depreciation (\$281 billion).

² CBO, “Individual Income Tax Receipts,” see line 22, Subpart F for Active Financing Income.

³ The Washington Post, “‘Active financing’ exemption for some businesses to cost taxpayers \$9 billion” (Dec. 23, 2010). <http://www.washingtonpost.com/wp-dyn/content/article/2010/12/22/AR2010122204963.html>

⁴ Citizens for Tax Justice (CTJ), “Don’t Renew the Offshore Tax Loopholes” (Aug. 2, 2012).

http://ctj.org/ctjreports/2012/08/dont_renew_the_offshore_tax_loopholes.php#.UupMvIvOQ7A

⁵ CTJ, “Congress Should Offset the Cost of the ‘Tax Extenders,’ or Not Enact Them At All” (Dec. 12, 2013), pp. 4-5. http://www.ctj.org/pdf/extenders_december_2013.pdf

⁶ CBO, “Individual Income Tax Receipts,” see line 24, Payments Between Related Controlled Foreign Corporations.

⁷ Sen. Carl Levin, “Senate Floor Statement on Introducing the Stop Tax Haven Abuse Act” (Sept. 19, 2013).

<http://www.levin.senate.gov/newsroom/speeches/speech/senate-floor-statement-on-introducing-the-stop-tax-haven-abuse-act/#sthash.ufgdQCEc.dpuf>

⁸ Joseph M. Calianno and Martin J. Collins, “The CFC Look-Through Rule: Congress Changes Landscape Of Subpart F,” *Tax Notes* (July 10, 2006), p. 3. <http://www.americansfortaxfairness.org/files/CFC-Look-Thru-Rule-Congress-Changes-Landscape-of-Subpart-F-Tax-Notes-20063-1.pdf>

⁹ Edward D. Kleinbard, “Stateless Income,” *Florida Tax Review* (2011), pp. 701-2.

http://www.sbs.ox.ac.uk/sites/default/files/Business_Taxation/Docs/WP1208.pdf

¹⁰ CBO, “Individual Income Tax Receipts,” see line 21, Credit for Research and Experimentation.

¹¹ Congressional Research Service, “Research Tax Credit: Current Law, Legislation in the 112th Congress, and Policy Issues” (Nov. 29, 2011), p. 11.

<http://www.ieeeusa.org/policy/eyeonwashington/2011/documents/researchtaxcredit.pdf>

¹² CTJ, “Reform the Research Tax Credit — Or Let It Die” (Dec. 4, 2013), p. 9.

<http://www.ctj.org/pdf/researchcredit.pdf>. This report references tax advice from leading accounting firm Deloitte. See similar advice offered by a smaller player: <http://www.scribd.com/doc/207308060/Food-Industry>

¹³ *Ibid.*, pp. 12-15.

¹⁴ Economic Policy Institute, “Time to Take Tax Policy Off of Autopilot: Why Congress Should Reconsider Tax Extenders,” (Feb. 25, 2014). <http://www.epi.org/publication/tax-extenders/>

¹⁵ CBO, “Individual Income Tax Receipts,” see line 36, Depreciation Period for Motor Tracks.

¹⁶ The Washington Post, “From NASCAR to rum, the 10 weirdest parts of the ‘fiscal cliff’ bill” (Jan. 2, 2013). <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/01/02/from-nascar-to-rum-the-10-weirdest-parts-of-the-fiscal-cliff-deal/>

¹⁷ 26 U.S. Code § 168 - Accelerated cost recovery system. <http://www.law.cornell.edu/uscode/text/26/168>. See Sec. (i)(15) for a definition of a motor racing track. See Sec. (e)(3)(C)(ii)] for a list of seven-year depreciable assets. See Sec. (c) for the depreciation schedule for 39 classes of assets.

¹⁸ CBO, “Individual Income Tax Receipts,” see line 33, Expensing of Film and TV Productions.

¹⁹ The Wrap, “Hollywood Loses a Federal Tax Credit – Will Congress Step In?” (Jan. 3, 2014). <http://www.thewrap.com/hollywood-loses-federal-tax-credit-will-government-step/>

²⁰ 26 U.S. Code § 181 - Treatment of certain qualified film and television productions, <http://www.law.cornell.edu/uscode/text/26/181>

²¹ CBO, “Individual Income Tax Receipts,” See line 38, Depreciation Classification for Certain Race Horses.

²² American Horse Council (AHC), “Legislative Issues & Policies - Equine Equity Act of 2007,” <http://www.horsecouncil.org/legislation/equityact110.php>

²³ AHC, “Equine Equity Act,” <http://www.horsecouncil.org/legislation/equityact110.php>