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Treasury Releases "Green Book" of Obama Administration FY 2014 Tax Priorities

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On April 10, the Treasury Department released its "General Explanations of the Administration's Fiscal Year 2014 Revenue Proposals." Known as the "Green Book," the document provides an explanation of the Administration's FY 2014 tax proposals. This alert summarizes the major proposals in the Green Book, along with key takeaways and reactions to those proposals. This alert then outlines the Administration's tax proposals using the same organization and titles as used in the Green Book.

Major Proposals

Many of the proposals included in the FY 2014 budget are either the same or modified versions of proposals included in the Administration's FY 2013 budget. However, the budget includes nearly 50 new proposals, including:

- Extending employment tax credits for hiring veterans;
- Requiring derivatives contracts to be marked to market and taxed as ordinary income on an annual basis;
- Repealing the domestic manufacturing deduction for oil and natural gas production;
- Establishing multiple incentives for investment in infrastructure, including "America Fast Forward" Bonds and increasing caps on other bonds;
- Taxing carried interest as ordinary income;
- Returning the estate tax to 2009 levels, modifying the recent estate tax exclusions and rates signed into law earlier this year under the American Taxpayer Relief Act;
- Prohibiting individuals from accumulating more than $3 million in tax-preferred retirement accounts; and
- Capping the benefit of certain deductions (such as a charitable contribution deduction) to 28 percent for taxpayers at or above the 33% marginal tax rate.

Notably, the revenue estimates for this year's budget are divided into two separate sections: (1) a reserve for revenue-neutral business tax reform proposals and (2) other FY 2014 budget proposals. The Administration's revenue-neutral business tax reform proposals are designed to eliminate loopholes and subsidies, broaden the base and cut the corporate tax rate, strengthen American manufacturing and innovation, strengthen the international tax system, simplify and cut taxes for small businesses, and restore fiscal responsibility.

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Importantly, bifurcating the Green Book between tax reform and other proposals suggests that the White House is willing to use proposals outside of the tax reform context for deficit reduction. This sets the stage for options available for deficit reduction during the upcoming debt ceiling debate, which could include increasing revenues, cutting spending, or a combination of those measures.

Key Takeaways

There are several significant takeaways from this year's budget, especially with regard to the corporate tax reform proposals:

- The budget does not identify a specific lower rate for corporate taxes;
- While the Administration provided proposals relating to business revenue-neutral tax reform (which is broader than corporate revenue-neutral tax reform), it did not put forward proposals on individual tax reform;
- Some, but not all, extenders were addressed in the budget request. This may represent a conscious decision to make some extenders permanent while setting aside others that are perceived to be wasteful expenditures or politically contentious;
- Additionally, instead of featuring extenders proposals in one section per previous budgets, this year's budget has placed extenders proposals in several different sections;
- The Administration's international tax reform proposals remain unchanged from last year, underscoring its opposition to a pure territorial tax system;
- The budget proposal adopts several of the tax reform options listed in the House Ways and Means Committee's Financial Instruments Tax Reform Discussion Draft; and
- By promoting a "Buffett Tax," the Administration is supplementing the Alternative Minimum Tax with another method of calculating an individual's tax liability.

Reactions to Budget Proposals

Congressional reaction to the President's budget request has been mixed. Senate Finance Committee Chairman Max Baucus (D-MT) praised the Administration for supporting veteran hiring initiatives but had serious misgivings about its endorsement of tying Social Security benefits to the chained-CPI index. In contrast, the President's budget request may be particularly relevant to Speaker Boehner who demanded that chained-CPI be on the table during the fiscal cliff debate.

Meanwhile, House Ways and Means Chairman Dave Camp (R-MI) and other Republicans criticized the President's budget for not balancing the deficit, although Mr. Camp was encouraged by some of the provisions in the President's budget for comprehensive tax reform. House Budget Committee Chairman Paul Ryan (R-WI) lamented the President's budget request as a missed opportunity for bridging the gap between competing Congressional budget proposals, although he gave credit to the Administration for proposing entitlement reform. Similarly, Senate Budget Committee Chairman Patty Murray (D-WA) was disappointed by the budget but felt that it was a compromise that reduced the deficit in a meaningful way.

Notably, Treasury Secretary Jack Lew repeatedly stated in several hearings that the President's budget request did not represent a starting point for negotiations but was instead the product of several years of negotiations between Democrats and Republicans. He also endorsed the budget as a fair balance between entitlement savings and additional revenues.

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Many are now wondering what the relevance of the President's budget request is going forward, since it was released several weeks after the House and Senate finalized their own budgets. As a practical matter, the budget request serves as an attractive menu of revenue options that bears the imprimatur of the Administration, so it will continue to have relevance in the context of tax reform and deficit reduction.

Politically, the Administration believes that the budget will provide extra momentum for a bipartisan budget agreement – some, including Chairman Ryan, are cautiously optimistic that a deal exists. Moreover, integrating tax reform proposals with this year's budget request supports Chairmen Baucus and Camp's agenda as they pursue "buy-in" for moving forward with comprehensive tax reform this year.

A Summary of the Administration's Fiscal Year 2014 Revenue Proposals

Below is a high level overview of the Administration's Fiscal Year 2014 Revenue Proposals. As in previous budgets, these proposals cover a wide range of topics, including individual, corporate, and international taxation. Various proposals to spur economic growth, including manufacturing and savings incentives, are also in the budget request.

RESERVE FOR REVENUE-NEUTRAL TAX REFORM

Incentives for Expanding Manufacturing and Insourcing Jobs in America

Provide Tax Incentives for Locating Jobs and Business Activity in the United States and Remove Tax Deductions for Shipping Jobs Overseas

The Administration proposes tax incentives to bring offshore jobs and investments back into the U.S. In addition, the Administration proposes to reduce the benefit of tax provisions that exist under current law for expenses incurred to move U.S. jobs offshore. Combined, these proposals are estimated to cost $112 million over 10 years.

Provide Tax Incentives for Locating Jobs and Business Activity in the United States

The proposal would create a new general business credit against income tax equal to 20 percent of the eligible expenses paid or incurred in connection with insourcing a U.S. trade or business. For purposes of this proposal, "insourcing" means reducing or eliminating a trade or business (or line of business) currently conducted outside the U.S., to the extent that this action creates new U.S. jobs.

Remove Tax Deductions for Shipping Jobs Overseas

Under current law, a company may deduct ordinary and necessary expenses of carrying on a trade or business, including those related to moving operations or shutting down operations. The proposal would disallow deductions for expenses paid or incurred in connection with outsourcing a U.S. trade or business. For this purpose, "outsourcing" means reducing or eliminating a trade or business currently operating within the U.S. and starting up, expanding, or moving the same business outside the U.S., to the extent that this action results in a loss of U.S. jobs. Non-deductible expenses do not include capital expenditures or costs for severance pay and other assistance to displaced workers.

Provide New Manufacturing Communities Tax Credit

The Administration proposes a new allocated tax credit to support investments in communities that have experienced a closing of a military base or closing/reduction of a major employer. The credit

could be structured using the mechanism of the New Markets Tax Credit or as an allocated investment credit similar to the Qualifying Advanced Energy Project Credit. The Administration intends to work with Congress to craft the structure and selection criteria. The proposal would provide about $2 billion in credits for qualified investments approved in each of the three years 2014 through 2016. Costs $4.411 billion over 10 years.

Enhance and Make Permanent the Research & Experimentation Tax Credit

The research and experimentation (R&E) tax credit, which is scheduled to expire on December 31, 2013, is 20 percent of qualified research expenses above a base amount. Taxpayers can also elect the alternative simplified research credit, equal to 14 percent of qualified research expenses that exceed 50 percent of the average qualified research expenses for the three preceding taxable years. The proposal would make the credit permanent and increase the rate of the alternative simplified research credit from 14 percent to 17 percent. A similar proposal was in the Obama Administration’s FY 2013 budget. Costs $99.378 billion over 10 years.

Extend Certain Employment Tax Credits Including Incentives for Hiring Veterans

The Administration proposes to permanently extend the work opportunity tax credit (“WOTC”) and the Indian employment credit to employers of individuals from certain targeted groups. Combined, these proposals would cost $9.068 billion over 10 years.

Permanently Extend WOTC

The WOTC is available for employers hiring individuals from one or more of nine targeted groups, including: (1) recipients of Temporary Assistance for Needy Families; (2) veterans; (3) ex-felons; (4) certain residents of an empowerment zone or a rural renewal community; (5) referrals from state-sponsored vocational rehabilitation programs for the mentally and physically disabled; (6) summer youth employees ages 16 or 17 years old residing in an empowerment zone; (7) certain Supplemental Nutrition Assistance Program benefits recipients; (8) Supplemental Security Income recipients; and (9) long-term family assistance recipients. Under current law, WOTC does not apply to an individual who begins work after December 31, 2013. The proposal would permanently extend the WOTC.

Permanently Extend the Indian Employment Tax Credit

The Indian employment tax credit is available to an employer of an individual who is an enrolled member of an Indian tribe (or the spouse of an enrolled member), lives on or near the reservation where he or she works, performs services that are substantially all within the Indian reservation, and receives less than or equal to $30,000 in wages from the employer (adjusted annually for inflation after 1994). The inflation adjusted wage limit is $45,000 for 2013. The credit equals 20 percent of the excess of qualified wages and health insurance costs paid or incurred by an employer in the current tax year over the amount of such wages and costs paid or incurred by the employer in 1993. The Indian employment credit is scheduled to expire on December 31, 2013. The proposal would permanently extend the Indian employment credit. In addition, the Administration proposes to calculate the credit on the base year as opposed to the calendar year 1993.

Provide a Tax Credit for the Production of Advanced Technology Vehicles

Current law provides a tax credit for plug-in electric drive motor vehicles. The Administration proposes replacing this credit with a credit for advanced technology vehicles. Advanced technology vehicles would be required to meet several requirements – specifically: (1) the vehicle must operate

primarily on an alternative to petroleum; (2) there must be few vehicles operating in the U.S. as of January 1, 2012 using the same technology; and (3) the technology that the vehicle uses must exceed the footprint-based target miles per gallon gasoline equivalent (“MPGe”) by at least 25 percent. The credit would be limited to motor vehicles weighing 14,000 pounds or less. The credit would be scaled to the vehicle’s MPGe and would be capped at $10,000, or $7,500 for vehicles with a manufacturer’s suggested retail price above $45,000. The credit would be available for vehicles placed in service after December 31, 2013 and before January 1, 2021, except that the credit would be phased out at 75 percent of the otherwise available amount for vehicles placed in service in 2018, 50 percent for vehicles placed in service in 2019, and 25 percent in 2020. The credit would be available to the person that sold the vehicle to the person placing the vehicle in service, but only if the amount of the credit is disclosed to the purchaser. Costs $4.212 billion over 10 years.

Provide a Tax Credit for Medium- and Heavy-Duty Alternative Fuel Commercial Vehicles

Current law provides a tax credit for the purchase fuel-cell vehicles weighing over 14,000 pounds. However, there are no other tax incentives for vehicles weighing over 14,000 pounds. The Administration’s proposal would provide a tax credit for dedicated alternative-fuel vehicles weighing more than 14,000 pounds. The credit would be equal to 50 percent of the incremental cost of such vehicles compared to the cost of a comparable diesel fuel or gasoline vehicle. The credit would be limited to $25,000 for vehicles weighing up to 26,000 pounds and to $40,000 for vehicles weighing more than 26,000 pounds. For qualifying fuel-cell vehicles, the credit would be reduced by the amount of the credit allowed with respect to the vehicle under current law. The credit would be allowed for vehicles placed in service after December 31, 2013 and before January 1, 2020. The credit would also be limited to 50 percent of the otherwise allowable amount for vehicles placed in service in calendar year 2019. The credit would be allowed to the person who places the vehicle in service, but only if the amount of the credit is disclosed to the purchaser. Costs $2.056 billion over 10 years.

Modify and Permanently Extend the Renewable Electricity Production Tax Credit

Current law provides a renewable electricity production tax credit (“PTC”). The PTC is a per kilowatt-hour tax credit of electricity produced from qualified facilities that generate electricity from wind, closed-loop biomass, open-loop biomass, geothermal energy, and other sources. The credit is indexed annually for inflation and is nonrefundable. The Administration’s proposal would permanently extend the PTC and make it refundable. In addition, the Administration proposes to make the PTC available to electricity produced from solar facilities. The refundable tax credit would be available for property on which construction begins after December 31, 2013. Costs $17.443 billion over 10 years.

Modify and Permanently Extend the Deduction for Energy-Efficient Commercial Building Property

Under current law, taxpayers may deduct expenditures for energy-efficient commercial building property. The Administration’s proposal would raise the current maximum deduction to $3.00 per square foot and would increase the maximum partial deduction for each separate building system to $1.00 per square foot. The partial deduction would increase to $2.20 per square foot for taxpayers that satisfy energy savings targets both for building envelope and heating, cooling, ventilation, and hot water systems. The Secretary of the Treasury and the Secretary of Energy would update energy-

savings targets every three years. The proposal would also provide a new deduction to reward energy savings achieved by a plan to retrofit existing commercial buildings. The deduction would be available to existing buildings with at least 10 years of occupancy and would be capped at 50 percent of the total cost of implementation. The deduction would be allowed on a sliding scale, from $1.00 per square foot of retrofit floor area for energy savings of 20 percent or more to $4.00 per square foot of retrofit floor area for energy savings of 50 percent or more. Under the proposal, 60 percent of the deduction would be available when the property is placed in service based on the projected energy savings, and 40 percent would be available at a later time based on actual energy savings. The deduction would be available for property placed in service after December 31, 2013. Costs $5.222 billion over 10 years.

Tax Relief for Small Businesses

Extend Increased Expensing for Small Business

Under current law, in place of capitalization and depreciation, taxpayers may elect to deduct a limited amount of the cost of qualifying depreciable property placed in service during a taxable year. The deduction limit is reduced by the amount by which the cost of qualifying property placed in service during the taxable year exceeds a specified threshold amount. The maximum deduction amount and the beginning of the phase-out range have been adjusted several times in recent years. For qualifying property placed in service through 2013, the maximum deduction amount is $500,000, reduced by the amount that a taxpayer’s qualifying investment exceeds $2,000,000. For qualifying property placed in service in taxable years beginning after 2013, the limits will revert to pre-2003 law, with $25,000 as the maximum deduction and $200,000 as the beginning of the phase-out range. The Administration’s proposal would permanently extend the 2013 expensing level and phase-out. Costs $68.661 billion over 10 years.

Eliminate Capital Gains Taxation on Investments in Small Business Stock

Generally, taxpayers other than corporations may exclude 50 percent of the gain from the sale of qualified small business stock acquired at original issue and held for at least 5 years. Under the Small Business Jobs Act, taxpayers other than corporations may exclude 100 percent of the gain from the sale of qualified small business stock acquired after September 27, 2010 and before January 1, 2011, and held for at least five years, provided various requirements are met. This 100 percent exclusion was subsequently extended to apply to eligible stock acquired before January 1, 2014. The Administration’s proposal would make the 100 percent exclusion permanent. A similar proposal was in the Obama Administration’s FY 2013 budget. Costs $5.810 billion over 10 years.

Double the Amount of Expensed Start-Up Expenditures

In general, a taxpayer may elect to deduct up to $5,000 of start-up expenditures in the taxable year in which the active trade or business begins, and to amortize the remaining amount ratably over the 180-month period beginning with the month in which the active trade or business begins. The $5,000 amount is reduced by the amount by which start-up expenditures with respect to the active trade or business exceed $50,000. In the case of a taxable year beginning in 2010, the Creating Small Business Jobs Act of 2010 increased the $5,000 limit on expensed start-up expenditures to $10,000, where that amount was reduced by the amount by which start-up expenditures with respect to the active trade or business exceeded $60,000. The Administration’s proposal would make permanent the increased limit and phase-out. A similar proposal was in the Obama Administration’s FY 2013 budget. Costs $2.963 billion over 10 years.

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Expand and Simplify the Tax Credit Provided to Qualified Small Employers for Non-Elective Contributions to Employee Health Insurance

The Affordable Care Act created a tax credit to help small employers provide health insurance for employees and their families. The credit is phased out on a sliding scale between 10 and 25 full-time equivalent employees, as well as between an average annual wage of $25,000 and $50,000 (indexed). During 2010 through 2013, the maximum credit is 35 percent (25 percent for tax-exempt employers) of the employer's contributions to the premium. For 2014 and later years, the maximum credit percentage is 50 percent (35 percent for tax-exempts). The proposal would expand the group of employers who are eligible for the credit to include employers with up to 50 full-time equivalent employees and would begin the phase-out at 20 full-time equivalent employees. In addition, there would be a change in the coordination of the phase-outs based on average wage and the number of employees so as to provide a more gradual combined phase-out. A similar proposal was in the Obama Administration's FY 2013 budget. Costs $10.496 billion over 10 years.

Incentives to Promote Regional Growth

Extend and Modify New Markets Tax Credit ("NMTC")

The NMTC is a 39 percent credit for qualified equity investments made to acquire stock in a corporation, or a capital interest in a partnership, that is a qualified community development entity that is held for a period of seven years. The proposal would extend the NMTC permanently, with an allocation amount of $5.0 billion for each round. A similar proposal was in the Obama Administration's FY 2013 budget. Costs $7.363 billion over 10 years.

Restructure Assistance to New York City

The Job Creation and Worker Assistance Act of 2002 provided tax incentives for the area of New York City damaged or affected by the terrorist attacks on September 11, 2001, known as the New York Liberty Zone. The proposal would provide tax credits to New York State and New York City for expenditures relating to the construction or improvement of transportation infrastructure in or connecting to the New York Liberty Zone. A similar proposal was in the Obama Administration's FY 2013 budget. Costs $2.000 billion over 10 years.

Modify Tax-Exempt Bonds for Indian Tribal Governments

Current law contains certain limitations on Indian Tribal Governments in their use of tax-exempt bonds. The proposal would: (1) adopt for Indian tribal governments the comparable state/local government standard for eligibility for issuing tax-exempt governmental bonds on a permanent basis; (2) adopt a comparable private activity bond standard; (3) impose a targeting restriction on the location of projects financed; and (4) impose a restriction on the financing of gambling facilities. A similar proposal was in the Obama Administration's FY 2013 budget. Costs $120 million over 10 years.

Reform and Expand the Low-Income Housing Tax Credit ("LIHTC")

Under current law, the LIHTC provides an incentive for the acquisition and development or rehabilitation of rental housing occupied by tenants having incomes below specified levels. The proposal would reform and expand the LIHTC by: (1) allowing states to convert private activity bond volume cap into LIHTCs that the state can allocate; (2) encouraging mixed income occupancy by allowing LIHTC-supported projects to elect a criterion employing a restriction on average income; (3)

changing formulas for 70 present value and 30 percent present value LIHTCs; (4) adding preservation of federally assisted affordable housing to allocation criteria; and (5) making the LIHTC beneficial to Real Estate Investment Trusts ("REITs"). Some of the proposals to reform and expand the LIHTC were in the Obama Administration's FY 2013 budget. Costs $1.387 billion over 10 years.

Reform the U.S. International Tax System

Defer Deductions of Interest Expense Related to Deferred Income of Foreign Subsidiaries

Under current law, a U.S. person may generally deduct interest expense properly allocable and apportioned to foreign-source income, even if the expenses exceed the taxpayer's gross foreign-source income or if the taxpayer earns no foreign-source income. The Administration asserts that the ability to deduct expenses from overseas investments while deferring U.S. tax on the income from the investments may cause U.S. businesses to shift their investments and jobs overseas. The proposal would defer the deduction of interest expense attributable to ownership of stock of a foreign corporation that exceeds a proportionate amount of the taxpayer's income from such corporation that currently is subject to U.S. tax. Branch income would be considered currently subject to U.S. tax, so the proposal would not apply to interest income attributable to branch income. Other directly earned foreign source income, like royalty income, also would not be subject to the limitation. Deferred interest expense would be deductible in later years, subject to the same limitations. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $36.520 billion over 10 years.

Determine the Foreign Tax Credit on a Pooling Basis

Subject to certain limitations, current law provides that a taxpayer may choose to claim a credit against its U.S. income tax liability for income taxes paid or accrued during the taxable year to any foreign country. Current law also provides that a domestic corporation receiving a dividend from certain foreign subsidiaries may claim a foreign tax credit (deemed paid credit) equal to a portion of the foreign taxes paid by those subsidiaries. The foreign tax credit is limited to the amount of the pre-credit U.S. tax on the taxpayer's foreign source income. The limitation is applied separately to a passive income category and a general category. The Administration believes that only two "baskets" of credit facilitate the use of "cross-crediting," unduly reducing U.S. taxes. The proposal would require U.S. taxpayers to determine the deemed paid credit based on a consolidated basis by determining the aggregate foreign taxes and earnings and profits of all of their relevant foreign subsidiaries, and limiting the deemed foreign tax credit to an amount proportionate to the taxpayer's pro rata share of the consolidated earnings and profits of the foreign subsidiaries repatriated to the U.S. A similar proposal was in the Obama Administration's FY 2013 budget. The Administration's current proposal raises $65.752 billion over 10 years.

Tax Currently Excess Returns Associated with Transfers of Intangibles Offshore

Under current law, a U.S. taxpayer transferring or licensing intangible property to a related foreign party must receive an amount that is commensurate with the income (i.e., equivalent to an arm's-length standard) attributable to the intangible property. However, notwithstanding the current rules, the Administration asserts that income shifting through transfers of intangibles to low-taxed affiliates has resulted in erosion of the U.S. tax base. The proposal would expand Subpart F by requiring a U.S. taxpayer that transfers an intangible from the U.S. to a related controlled foreign corporation to treat certain "excess income" from the intangible as Subpart F income if the income is subject to a low foreign effective tax rate. In the case of an effective tax rate of 10 percent or less, the proposal would

treat all excess income as Subpart F. The proposal would phase out for effective rates between 10 percent and 15 percent. Excess intangible income would be defined as the excess of gross income from transactions connected with or benefiting from the intangible over the costs (excluding interest and taxes) properly allocated and apportioned to this income, increased by a percentage mark-up. A transfer of intangibles subject to the proposal would include a sale, lease, license, or any shared risk or development agreement (including a cost sharing arrangement). The proposal refines the Obama Administration's FY 2013 budget proposal. Raises $24.005 billion over 10 years.

Limit Shifting of Income through Intangible Property Transfers

Under current law, a U.S. taxpayer transferring or licensing intangible property must receive an amount that is commensurate with the income attributable to the intangible property. In addition, current law generally requires a U.S. person transferring intangible property to a foreign corporation in certain non-recognition transactions to include similar amounts in income over the useful life of the property as for the sale of intangible property. The proposal would clarify the definition of intangible property for these purposes to include workforce in place, goodwill, and going concern value. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $2.108 billion over 10 years.

Disallow the Deduction for Excess Non-Taxed Reinsurance Premiums Paid to Affiliates

U.S. insurance companies are generally allowed a deduction for premiums paid for reinsurance. Insurance income of a foreign-owned company that is not engaged in a trade or business in the U.S. is not subject to U.S. income tax. The proposal would deny a U.S. insurance company a deduction for reinsurance premiums and other amounts paid to affiliated foreign reinsurance companies to the extent that the foreign insurer (or its parent company) is not subject to U.S. income tax with respect to the premiums received. The proposal would exclude from the U.S. insurance company's income any return premiums, ceding commissions, reinsurance recovered, or any amounts received with respect to reinsurance policies for which a premium deduction is wholly or partially denied. A foreign corporation can elect to treat the premiums and associated investment income as income effectively connected with the conduct of a trade or business in the U.S. A similar provision was included in the Obama Administration's FY 2013 budget proposal. Raises $6.209 billion over 10 years.

Limit Earnings Stripping by Expatriated Entities

Current law limits interest deductions by certain U.S. corporations to related parties. The limitation applies to a corporation that fails a debt-to-equity safe harbor greater than 1.5 to 1, and that has net interest expense in excess of 50 percent of adjusted taxable income. The proposal would tighten the limitation on the deductibility of interest for expatriated entities, defined for this purpose as an entity that would have been subject to section 7874 and the regulations thereunder if those rules had been in effect since July 10, 1989. These rules generally apply to a U.S. corporation that becomes a subsidiary of a foreign corporation where there is between 60 percent and 80 percent continuity of shareholder interest. The current law debt-to-equity safe harbor would be eliminated, and the 50 percent adjusted taxable income threshold would be reduced to 25 percent. The carryforward for disallowed interest would be limited to 10 years, and the carryforward of excess limitation would be eliminated. A similar provision was included in the Obama Administration's FY 2013 budget proposal. Raises $4.658 billion over 10 years.

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Modify the Tax Rules for Dual Capacity Taxpayers

Under current law, a dual capacity taxpayer may not take a foreign tax credit for the portion of any foreign levy that is attributable to a specific economic benefit received by the taxpayer from the levying country. The proposal would allow a dual capacity taxpayer to treat as a creditable tax the portion of a foreign levy that does not exceed the foreign levy that the taxpayer would pay if it were not a dual-capacity taxpayer. The proposal would replace the current regulatory provisions, including the safe harbor, that apply to determine the amount of a foreign levy paid by a dual capacity taxpayer that qualifies as a creditable tax. The proposal would also impose additional limitations on foreign tax credits with respect to foreign oil and gas income. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $10.964 billion over 10 years.

Tax Gain from the Sale of a Partnership Interest on Look-Through Basis

In general, the sale or exchange of a partnership interest is treated as the sale or exchange of a capital asset. Capital gains of a nonresident alien individual or foreign corporation generally are subject to federal income tax only if the gains are treated as income that is effectively connected with the conduct of a trade or business in the U.S. ("ECI"). Revenue Ruling 91-32 holds that gain or loss of a nonresident alien individual or foreign corporation from the sale or exchange of a partnership interest is effectively connected with the conduct of a trade or business in the U.S. to the extent the partner's distributive share of unrealized gain or loss of the partnership is attributable to ECI related property. Some nonresident alien individuals and foreign corporations may take a contrary position because this position is not statutory. The proposal would provide that gain or loss from the sale or exchange of a partnership interest is ECI to the extent attributable to the partner's distributive share of the partnership's unrealized gain or loss attributable to ECI property. Transferees of partnership interests would be required to withhold 10 percent of the amount realized on the sale or exchange of a partnership interest unless the transferor certified that the transferor was not a nonresident alien individual or foreign corporation. A similar proposal was in the Obama Administration's FY 2013 budget. The proposal is estimated to raise $2.656 billion over 10 years.

Prevent Use of Leveraged Distributions from Related Foreign Corporations to Avoid Dividend Treatment

In general, distributions of property by a corporation to a shareholder are treated as dividends to the extent of applicable earnings and profits; a reduction in basis to the extent of the shareholder's basis; and then gain from the sale or exchange or property. The Administration believes that current law effectively permits the earnings and profits of one corporation to be repatriated without being characterized as a dividend by having that corporation fund a distribution from a second, related corporation that does not have earnings and profits, but in which the distributee shareholder does have sufficient stock basis to treat the distribution as a return of basis. The proposal provides that to the extent a foreign corporation funds a second, related corporation with a principal purpose of avoiding dividend treatment on distributions to a U.S. shareholder, the U.S. shareholder's basis in the stock of the distributing corporation will not be taken into account for purposes of determining the treatment of the distribution. The proposal would apply to distributions after December 31, 2013. Raises $3.243 billion over 10 years.

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Extend Section 338(h)(16) to Certain Asset Acquisitions

A corporation that makes a qualified stock purchase of a target corporation is permitted to elect under section 338 to treat the stock acquisition as an asset acquisition, and thereby may step up, or increase, the tax basis of the target corporation's assets. Section 338(h)(16) prevents a seller from increasing allowable foreign tax credits as a result of a section 338 election. Section 901(m) denies a credit for certain foreign taxes paid or accrued after a covered asset acquisition. Section 338(h)(16) applies to a qualified stock purchase for which a section 338 election is made, but it does not apply to other types of covered asset acquisitions subject to the same credit disallowance rules under section 901(m). The proposal would extend the application of section 338(h)(16) to any covered asset acquisition and would apply to covered asset acquisitions occurring after December 31, 2013. Raises $960 million over 10 years.

Remove Foreign Taxes from a Section 902 Corporation's Foreign Tax Pool

Section 902 provides that a domestic corporation owning at least 10 percent of the voting stock of a foreign corporation is allowed a credit for foreign taxes paid by a foreign corporation if the domestic corporation receives a dividend distribution from the foreign corporation or, in certain circumstances, if it has a Subpart F income inclusion that is treated as a deemed dividend. Certain transactions other than a dividend distribution may result in a reduction, allocation or elimination of a corporation's earnings and profits. The elimination of earnings and profits without a corresponding reduction in the associated foreign taxes paid results in the taxpayer claiming a foreign tax credit for earnings that will not fund a dividend distribution, and thus will not be taxed for U.S. tax purposes. The proposal would reduce the amount of foreign taxes paid by a foreign corporation in the event a transaction results in the elimination of a foreign corporation's earnings and profits by the amount of foreign taxes associated with the eliminated earnings and profits. The proposal would be effective for transactions occurring after December 31, 2013. Raises $389 million over 10 years.

Reform Treatment of Financial and Insurance Industry Institutions and Products

Require That Derivative Contracts Be Marked to Market with Resulting Gain or Loss Treated as Ordinary

Current law provides for different rules on timing and character depending on the characterization of a derivatives contract and where it is traded. For example, forwards are taxable when transferred or settled and are taxed as capital gain or loss, but a forward traded on an exchange is a regulated futures contract that is subject to taxation under section 1256 (the "60/40 rule"). The 60/40 rule treats a regulated futures contract as 60 percent long-term capital gain or loss and 40 percent short-term gain according to its marked to market value as of the last day of the taxable year. Other derivatives contracts, such as notional principal contracts (i.e., swaps) are subject to their own timing and character rules. The Administration believes that the disparate treatment of derivatives taxation has created an elective tax regime that allows sophisticated taxpayers to manipulate the timing and character of their gain or loss.

The Administration proposes to require that gain or loss from a derivative contract be reported on an annual basis as if the contract were sold for its fair market value no later than the last business day of the taxpayer's taxable year (i.e., marked to market). Ordinary gain or loss would be attributed to the taxpayer under the proposal. Moreover, the definition of derivative would be broadly expanded to include contracts such as convertible debt and structured notes linked to actively traded property (i.e., exchange traded notes). Derivatives used as business hedges would be exempt from marked to market

accounting. The proposal would apply to derivative contracts entered into after December 31, 2013. Raises $18.889 billion over 10 years.

Modify Rules That Apply to Sales of Life Insurance Contracts

Under current law, the seller of a life insurance contract generally must report as taxable income the difference between the amounts received from the buyer and the adjusted basis in the contract. The proposal would require a person or entity that purchases an interest in an existing life insurance contract with a death benefit equal to or exceeding $500,000 to report certain information to the IRS, to the insurance company that issued the policy, and to the seller. The proposal would also modify the transfer-for-value rule to ensure that exceptions to that rule would not apply to buyers of policies. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $641 million over 10 years.

Modify Proration Rules for Life Insurance Company General and Separate Accounts

In the case of a life insurance company, a dividends-received deduction ("DRD") is permitted only with regard to the company's share of dividends received, reflecting the fact that some portion of the company's dividend income is used to fund tax-deductible reserves for its obligations to policyholders. The proposal would repeal the existing regime for prorating investment income between the "company's share" and the "policyholders' share," instead subjecting to a 15 percent proration the general account DRD. The limitations on DRD that apply to other corporate taxpayers would be expanded to apply explicitly to life insurance company separate account dividends in the same proportion as the mean of reserves bears to the mean of total assets of the account. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $5.101 billion over 10 years.

Expand Pro Rata Interest Expense Disallowance for Corporate-Owned Life Insurance

Under current law, an exception to the pro rata interest disallowance applies with respect to contracts that cover individuals who are officers, directors, employees, or 20 percent owners of the taxpayer. Specifically, in the case of both life and non-life insurance companies, special proration rules require adjustments to prevent or limit the funding of tax-deductible reserve increases with tax-preferred income. The proposal would repeal the exception from the pro rata interest expense disallowance rule for contracts covering employees, officers, or directors, other than 20 percent owners of a business that is the owner or beneficiary of the contracts. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $5.919 billion over 10 years.

Eliminate Fossil Fuel Preferences

Eliminate Oil and Gas Preferences

Repeal Credit for Enhanced Oil Recovery ("EOR") Projects

Under current law, the general business credit includes a 15 percent credit for eligible costs attributable to EOR projects, including the cost of depreciable or amortizable tangible property that is an integral part of the project; intangible drilling and development costs that the taxpayer can elect to deduct; and deductible tertiary injectant costs. The Administration proposes to repeal the credit for taxable years beginning in 2014. A similar proposal was in the Obama Administration's FY 2013 budget. Negligible revenue effect.

Treasury Releases "Green Book" of Obama Administration FY 2014 Tax Priorities

Repeal Credit for Production from Marginal Wells

Under current law, the general business credit includes a credit for crude oil and natural gas produced from marginal wells. The credit is available for production from wells that produce oil and gas qualifying as marginal production for purposes of the percentage depletion rules or that have average daily production of not more than 25 barrel-of-oil equivalents and produce at least 95 percent water. Generally, the credit rate is $3.00 per barrel of oil and $0.50 per 1,000 cubic feet of natural gas. The Administration proposes to repeal the credit for taxable years beginning in 2014. A similar proposal was in the Obama Administration's FY 2013 budget. Negligible revenue effect.

Repeal Expensing of Intangible Drilling Costs

Under the Administration's proposal, expensing of intangible drilling costs and 60-month amortization of capitalized intangible drilling costs would not be allowed. Instead, intangible drilling costs would be capitalized as depreciable or depletable property, depending on the nature of the cost incurred, in accordance with the generally applicable rules. The proposal would be effective for costs paid or incurred after 2013. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $10.993 billion over 10 years.

Repeal Deduction for Tertiary Injectants

Under current law, taxpayers may deduct the cost of qualified tertiary injectant expenses for the taxable year. Qualified tertiary injectant expenses are amounts paid or incurred for any tertiary injectant (other than recoverable hydrocarbon injectants) that is used as a part of a tertiary recovery method. The Administration proposes to repeal the deduction beginning in 2014. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $107 million over 10 years.

Repeal Exemption to Passive Loss Limitation for Working Interests in Oil and Gas Properties

Under current law, the passive loss rules limit deductions and credits from passive trade or business activities. Passive activities are defined to include trade or business activities in which the taxpayer does not materially participate. However, current law provides an exception for any working interest in an oil or gas property that the taxpayer holds directly or through an entity that does not limit the liability of the taxpayer with respect to the interest. The Administration proposes to repeal the exception from the passive loss rules for working interests in oil and gas properties beginning in 2014. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $74 million over 10 years.

Repeal Percentage Depletion for Oil and Natural Gas Wells

Under current law, the capital costs of oil and gas wells are recovered through the depletion deduction. Under the cost depletion method, the basis recovery for a taxable year is proportional to the exhaustion of the property during the year. A taxpayer may also qualify for percentage depletion with respect to oil and gas properties. The amount of the deduction is a statutory percentage of the gross income from the property. For oil and gas properties, the percentage ranges from 15 percent to 25 percent and the deduction may not exceed 100 percent of the taxable income from the property and may not exceed 65 percent of the taxpayer's overall taxable income. Under the Administration's proposal, effective after 2013, percentage depletion would not be allowed with respect to oil and gas wells. Taxpayers would be permitted to claim cost depletion on their adjusted basis, if any, in oil and gas wells. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $10.723 billion over 10 years.

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Repeal Domestic Manufacturing Deduction for Oil and Natural Gas Production

Current law allows a deduction for income attributable to domestic production activities, known as the domestic manufacturing deduction. The deduction is generally equal to 9 percent of the lesser of qualified production activities income for the taxable year or taxable income for the taxable year, limited to 50 percent of the taxpayer's W-2 wages. The deduction for income from oil and gas production activities is computed at a 6 percent rate. Qualified production activities income includes a taxpayer's domestic production gross receipts minus the cost of goods sold and other expenses, losses, or deductions attributable to such receipts. The proposal would retain the overall manufacturing deduction but exclude from the definition of domestic production gross receipts all gross receipts derived from the sale, exchange or other disposition of oil, natural gas or a primary product thereof for taxable years beginning after 2013. Raises $17.447 billion over 10 years.

Increase the Geological and Geophysical Amortization Period for Independent Producers to Seven Years

Geological and geophysical expenditures are costs incurred for the purpose of obtaining and accumulating data that will serve as the basis for the acquisition and retention of mineral properties. Under current law, the amortization period for these expenditures incurred in connection with oil and gas exploration is two years for independent producers. The Administration proposes to increase the amortization period from two years to seven years for amounts paid or incurred after 2013. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $1.363 billion over 10 years.

Eliminate Coal Preferences

Repeal Expensing of Exploration and Development Costs

Under the Administration's proposal, expensing, 60-month amortization, and 10-year amortization of exploration and development costs relating to coal and other hard mineral fossil fuels would not be allowed. Instead, the costs would be capitalized as depreciable or depletable property, depending on the nature of the cost incurred, in accordance with the generally applicable rules. The proposal would be effective for costs paid and incurred beginning in 2014. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $432 million over 10 years.

Repeal Percentage Depletion for Hard Mineral Fossil Fuels

Under current law, the capital costs of coal mines and other hard mineral fossil fuel properties are recovered through the depletion deduction. Under the cost depletion method, the basis recovery for a taxable year is proportional to the exhaustion of the property during the year. A taxpayer may also qualify for percentage depletion with respect to coal and other hard mineral fossil fuel properties. The amount of the deduction is a statutory percentage of the gross income from the property. For coal and lignite properties, the percentage is 10 percent and for oil shale properties used for fuel purposes, the percentage is 15 percent. The deduction may not exceed 50 percent of the taxable income from the property. Under the Administration's proposal, effective for taxable years beginning in 2014, percentage depletion would not be allowed with respect to coal and other hard mineral fossil fuels. The other hard mineral fossil fuels for which no percentage depletion would be allowed include lignite and oil shale, to which a 15 percent depletion rate applies. Taxpayers would be permitted to claim cost depletion on their adjusted basis, if any, in coal and other hard mineral fossil fuel properties. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $1.982 billion over 10 years.

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Repeal Capital Gains Treatment of Certain Royalties

Under current law, royalties received on the disposition of coal or lignite generally qualify for treatment as long-term capital gains and the royalty owner does not qualify for percentage depletion with respect to the coal or lignite. The Administration's proposal would tax coal and lignite royalties as ordinary income, repealing their capital gains treatment. The proposal is effective for amounts realized beginning in 2014. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $432 million over 10 years.

Repeal Domestic Manufacturing Deduction for the Production of Coal and Other Hard Mineral Fossil Fuels

Under current law, the domestic manufacturing deduction is generally available to all taxpayers that generate qualified production activities income, including income from the sale, exchange or disposition of coal, other hard mineral fossil fuels, or primary products thereof produced in the United States. The proposal would retain the overall manufacturing deduction, but exclude from the definition of domestic production gross receipts all gross receipts derived from the sale, exchange or other disposition of coal, other hard mineral fossil fuels, or a primary product thereof. The hard mineral fossil fuels to which the exclusion would apply include lignite and oil shale to which a 15-percent depletion rate applies. Raises $409 million over 10 years.

Other Revenue Changes and Loophole Closers

Repeal the Excise Tax Credit for Distilled Spirits with Flavor and Wine Additives

Under current law, distilled spirits that are mixed with flavor or wine additives qualify for a credit against the rate of $13.50 per proof-gallon. The Administration's proposal would repeal the credit found in section 5010 of the Internal Revenue Code. The Administration reasons that calculating the credit and enforcing compliance with the provision is complicated for producers and the government, since it requires information about the specific components of the beverage rather than alcohol content alone. Repeal would raise revenue and simplify tax collections credit for distilled spirits and tax all distilled spirit beverages at the $13.50 per proof-gallon rate. The Administration's proposal raises $1.093 billion over 10 years.

Repeal Last-In, First-Out ("LIFO") Method of Accounting for Inventories

Under the LIFO method of accounting for inventories, it is assumed that the cost of the items of inventory that are sold is equal to the cost of the items of inventory that were most recently purchased or produced. The proposal would repeal the use of the LIFO accounting method for federal tax purposes. The Administration believes that repealing LIFO would eliminate a tax deferral opportunity available to taxpayers, would simplify the tax code by eliminating a complex and burdensome accounting method, and would remove a possible impediment to the implementation of International Financial Reporting Standards in the U.S. Taxpayers currently using LIFO would be required to report their inventory using first-in, first-out accounting methods. The LIFO reserve would be taken in account as additional income ratably over 10 years, beginning with the first taxable year beginning after December 31, 2013. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $80.822 billion over 10 years.

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Repeal Lower-of-Cost-or-Market Inventory ("LCM") Accounting Method

Presently, taxpayers not using a LIFO method may write down the carrying values of their inventories by applying the LCM method, and may write down the cost of subnormal goods. Under the proposal, use of the LCM and subnormal goods methods would be prohibited. The proposal would result in a change in the method of accounting for inventories for taxpayers currently using the LCM and subnormal goods methods, and any resulting section 481(a) adjustment generally would be included in income ratably over a four-year period beginning with the year of change. The provision would be effective for taxable years beginning after December 31, 2013. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $7.172 billion over 10 years.

Modify Depreciation Rules for General Aviation Passenger Aircraft

Under current law, corporate jets are depreciated over 5 years, in contrast to commercial aircraft which are depreciated over 7 years. The proposal changes depreciation for corporate jets to 7 years for taxable years beginning after December 31, 2013. A similar proposal was included in the President's submission to the Joint Select Committee on Deficit Reduction. Raises $2.702 billion over 10 years.

Repeal Gain Limitation for Dividends Received in Reorganization Exchanges

Under current law, if as part of a reorganization transaction an exchanging shareholder receives in exchange for its stock of the target corporation both stock and property that cannot be received without the recognition of gain (boot), the exchanging shareholder is required to recognize gain equal to the lesser of the gain realized in the exchange or the amount of boot received (boot-within-gain limitation). The proposal would repeal the boot-within-gain limitation of current law in the case of any reorganization transaction if the exchange has the effect of the distribution of a dividend. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $2.702 billion over 10 years.

Expand the Definition of Substantial Built-In Loss for Purposes of Partnership Loss Transfers

Upon a sale or exchange of a partnership interest, partnerships that have a substantial built-in loss must adjust the bases of their assets. A partnership has a substantial built-in loss if the partnership's adjusted bases in its assets exceed the fair market value of such property by more than $250,000. The Administration proposes to measure a substantial built-in loss instead by reference to whether the transferee would be allocated a loss in excess of $250,000 if the partnership sold all of its assets immediately after the sale or exchange of the partnership. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $73 million over 10 years.

Extend Partnership Basis Limitation to Nondeductible Expenditures

Current law provides that a partner's distributive share of loss is allowed only to the extent of the adjusted basis of the partner's interest in the partnership. Any losses in excess of this amount are allowed as a deduction at the end of the partnership year in which the partner has sufficient basis in the partnership interest to take the deduction. However, these provisions do not apply to partnership expenditures that are not deductible in computing the partnership's taxable income and are not properly chargeable to capital account. The Administration proposes to allow a partner's distributive share of expenditures that are not deductible in computing the partnership's income and not properly

chargeable to the capital account to be deducted only to the extent the partner's adjusted basis in its partnership interest at the end of the partnership year. Raises $948 million over 10 years.

Limit the Importation of Losses under Related Party Loss Limitation Rule

If a loss sustained by a transferor is disallowed because the transferor and transferee are related, section 267 provides that the transferee may reduce any gain that it recognizes on a disposition of the transferred asset by the amount of the loss disallowed by the transferor. This shifts the benefit of the loss to the transferee; as a result, losses can be imported where a gain or loss on the property is not subject to federal income tax in the hands of the transferor immediately before the transfer but a gain or loss on the property is subject to federal income tax in the hands of the transferee immediately after the transfer. The Administration proposes to amend section 267 so that it does not apply under these circumstances. Raises $879 million over 10 years.

Deny Deduction for Punitive Damages

Under the proposal, no deduction would be allowed for punitive damages paid or incurred by the taxpayer, whether upon a judgment or in settlement of a claim. Where the liability for punitive damages is covered by insurance, such damages paid or incurred by the insurer would be included in the gross income of the insured person. The proposal would apply to damages paid or incurred after December 31, 2014. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $372 million over 10 years.

Eliminate Section 404(k) Employee Stock Ownership Plan Dividend Deduction for Large C Corporation

Under current law, corporations do not generally receive a corporate income tax deduction for dividends paid to their shareholders. C corporations are allowed a deduction for dividends paid with respect to employer stock held in an ESOP if certain conditions are met. A dividend qualifies as an applicable dividend only if the provisions of the ESOP provide that the dividend is paid or used in accordance with one of four available alternatives. The administration's proposal would repeal the deduction for dividends paid with respect to stock held by an ESOP that is sponsored by a C corporation, subject to an exception for C corporations with annual receipts of $5 million or less. Raises $6.577 billion over 10 years.

BUDGET PROPOSALS

Tax Relief to Create Jobs and Jumpstart Growth

Provide Small Businesses a Temporary 10 percent Tax Credit for New Jobs and Wage Increases

Under current law, there is no generally available income tax credit for job creation or increasing employees' wages. Under the proposal, qualified employers would be provided a tax credit for increases in wage expense, whether driven by new hires, increased wages, or both. The credit would be equal to 10 percent of the increase in the employer's eligible wages over the base year of 2012. Costs $25.797 billion over 10 years.

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Provide Additional Tax Credits for Investments in Qualified Property Used in Advanced Energy Manufacturing Project

Current law provides a 30 percent tax credit for investments in eligible property used in a qualifying advanced energy project. A qualifying advanced energy project is a project that re-equips, expands, or establishes a manufacturing facility for the production of advanced energy property. The proposal would authorize an additional $2.5 billion of credits for investments in eligible property used in a qualifying advanced energy manufacturing project. If a taxpayer applies for a credit with respect to only part of the qualified investment in the project, the taxpayer's increased cost sharing and the project's reduced revenue cost to the government would be taken into account in determining whether to allocate credits to the project. Costs $1.827 billion over 10 years.

Designate Promise Zones

Current law provides various tax incentives to encourage the development of particular regions, including empowerment zones. The proposal would designate 20 promise zones, selected in four rounds of five each, with 14 in urban areas and 6 in rural areas. Zone designations and corresponding tax incentives would last for 10 years. The Secretary of Commerce would designate the zones in consultation with numerous other Cabinet-level officials through a competitive application process. Designations would be based on the strength of the applicant's "competitiveness plan," its need to attract investment and jobs, and several other factors. Certain geographical and population requirements would apply. Promise zones would receive two tax incentives: (1) an employment credit for businesses that employ zone residents and (2) first-year depreciation of 100 percent for new qualified property placed in service within the zone. The employment credit would apply to the first $15,000 of zone employee wages. The credit would equal 20 percent for zone residents employed within the area and 10 percent for zone residents employed outside the area. With respect to first-year depreciation, qualified property would include tangible property with a recovery period of 20 years or less, water utility property, certain computer software, and qualified leasehold improvement property. Costs $5.376 billion over 10 years.

Incentives for Investment in Infrastructure

Provide America Fast Forward Bonds and Expand Eligible Uses

Previously, Congress established Build America Bonds, which are taxable bonds issued by state and local governments in which the federal government makes direct payments to state and local governmental issuers (called "refundable tax credits") to subsidize a portion of their borrowing costs in an amount equal to 35 percent of the coupon interest on the bonds. The proposal would create a new, permanent America Fast Forward Bond program that would be an optional alternative to traditional tax-exempt bonds. Like Build America Bonds, America Fast Forward Bonds would be taxable bonds issued by state and local governments in which the federal government makes direct payments to state and local governmental issuers (through refundable tax credits). Treasury would make payments in an amount equal to 28 percent of the coupon interest on the bonds. Eligible uses for America Fast Forward Bonds would include: (1) original financing for governmental capital projects, as under the authorization of Build America Bonds; (2) current refundings of prior public capital project financings for interest cost savings where the prior bonds are repaid promptly within 90 days of issuance of the current refunding bonds; (3) short-term governmental working capital financings for governmental operating expenses; and (4) financing for section 501(c)(3) nonprofit entities. Costs $233 million over 10 years.

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Increase the Federal Subsidy Rate for America Fast Forward Bonds for School Construction

State and local governments issue tax-exempt bonds to finance a wide range of projects, including school construction. The proposal provides a temporary 50 percent federal subsidy rate for America Fast Forward Bonds for School Construction for 2014 and 2015. Eligible uses would be: (1) original financings for governmental capital projects for public schools and state universities; and (2) new money financings for section 501(c)(3) nonprofit educational entities, such as nonprofit schools and nonprofit universities that could use qualified section 501(c)(3) bonds. Issuers could choose to issue America Fast Forward Bonds for School Construction or traditional tax-exempt bonds. Costs $10.191 billion over 10 years.

Allow Current Refundings of State and Local Governmental Bonds

Refundings of state and local bonds reduce interest costs. However, current statutory provisions vary in their treatment of refundings among different state and local bond program provisions. The proposal would provide a general provision to authorize current refundings of state and local bonds to allow for greater uniformity and certainty. Bonds would have to meet certain size and maturity limitations for the refunding provisions to apply. Negligible revenue effect.

Repeal the $150 Million Non-hospital Bond Limitation on Qualified Section 501(c)(3) Bonds

Section 501(c)(3) bonds can be used to finance either capital expenditures or working capital expenditures of section 501(c)(3) organizations. The proposal would repeal the current law $150 million limit on the volume of outstanding, non-hospital, tax-exempt bonds for the benefit of any one section 501(c)(3) organization. Costs $100 million over 10 years.

Increase National Limitation Amount for Qualified Highway or Surface Freight Transfer Facility Bonds

Under current law, tax-exempt private activity bonds may be used to finance qualified highway or surface freight transfer facilities. Such bonds are not subject to state volume limitations; instead, the Secretary of Transportation is authorized to allocate a total of $15 billion of issuance authority to qualified highway or surface freight transfer facilities in such manner as the Secretary determines appropriate. The proposal would increase the $15 billion aggregate amount permitted to be allocated to $19 billion. Costs $515 million over 10 years.

Eliminate the Volume Cap for Private Activity Bonds for Water Infrastructure

There are two basic kinds of tax-exempt bonds: governmental bonds and qualified private activity bonds. Private activity bonds may be issued on a tax-exempt basis only if they meet the general requirements for governmental bonds and the additional requirements necessary for “qualified” private activity bonds. Most qualified private activity bonds are subject to an annual unified state volume cap. The proposal would provide an exception to the unified annual state volume cap on tax-exempt qualified private activity bonds for exempt facilities for the “furnishing of water” or “sewage facilities.” Costs $258 million over 10 years.

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Increase the 25 percent Limit on Land Acquisition Restriction on Qualified Private Activity Bonds

Under current law, a private activity bond is generally not a qualified bond if it is part of an issue where 25 percent or more of the net proceeds are to be used for the acquisition of land. The proposal would increase the 25 percent land acquisition restriction to 35 percent on certain qualified private activity bonds. Costs $176 million over 10 years.

Allow More Flexible Research Arrangements for Purposes of the Private Business Use Limits

Under current law, actual or beneficial use of a tax-exempt bond-financed project by a private business for the purposes of public-private research arrangements involving the conduct of research at tax-exempt bond-financed research facilities faces stringent restrictions. The proposal would provide an exception to the private business limits on tax-exempt bonds for research arrangements relating to basic research at tax-exempt bond-financed research facilities that meet the following requirements: (1) a qualified user (a state and local government or section 501(c)(3) nonprofit entity) would be required to own the research facilities; and (2) a qualified user would be permitted to enter into any bona fide, arm's-length contractual arrangement with a private business sponsor of basic research regarding the terms for sharing the economic benefits of any products resulting from the research, including arrangements in which those economic terms (such as exclusive or non-exclusive licenses of intellectual property, and licensing fees or royalty rates) are determined in advance at the time the parties enter into the contractual arrangement. Costs $16 million over 10 years.

Repeal the Government Ownership Requirement for Certain Types of Exempt Facility Bonds

Current law permits tax-exempt financing with respect to different categories of "exempt facilities" including airports, docks and wharves, and mass commuting facilities. However, these facilities are treated as exempt facilities only if all of the property to be financed with the net proceeds of the tax-exempt bond issue is to be owned by a governmental unit. The proposal would repeal the requirement that airports, docks and wharves, and mass commuting facilities must be owned by a governmental unit. Costs $3.764 billion over 10 years.

Exempt Foreign Pension Funds from the Application of the Foreign Investment in Real Property Tax Act ("FIRPTA")

FIRPTA, enacted in 1980, is intended to subject foreign investors to the same U.S. tax treatment on gains from the disposition of U.S. real property interests as that which applies to U.S. investors. The proposal would exempt from the application of FIRPTA gains of foreign pension funds from the disposition of U.S. real property interests. Costs $2.168 billion over 10 years.

Tax Cuts for Families and Individuals

Provide for Automatic Enrollment in Individual Retirement Accounts or Annuities ("IRAs"), Including a Small Employer Tax Credit, and Double the Tax Credit for Small Employer Plan Start-Up Costs

The proposal would require employers in business for at least two years that have more than ten employees to offer an automatic IRA option to employees, under which regular contributions would

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be made to an IRA on a payroll-deduction basis. Small employers (those that have no more than 100 employees) that offer an automatic IRA arrangement could claim a temporary non-refundable tax credit for the employer's expenses associated with the arrangement up to $500 for the first year and $250 for the second year. These employers would be entitled to an additional non-refundable credit of $25 per enrolled employee up to $250 for six years. In conjunction with the automatic IRA proposal, to encourage employers not currently sponsoring a qualified retirement plan, SEP, or SIMPLE to do so, the non-refundable "start-up costs" tax credit for a small employer that adopts a new qualified retirement, SEP, or SIMPLE would be doubled from the current maximum of $500 per year for three years to a maximum of $1,000 per year for three years and extended to four years (rather than three) for any employer that adopts a new qualified retirement plan, SEP, or SIMPLE during the three years beginning when it first offers (or first is required to offer) an automatic IRA arrangement. Costs $17.626 billion over 10 years.

Expand the Child and Dependent Care Tax Credit

Taxpayers are provided a nonrefundable tax credit for up to 35 percent of $3,000 in eligible care expenses for one child or dependent and up to $6,000 in eligible expenses for more than one child or dependent. Currently, the percentage of expenses for which the credit may be claimed decreases by 1 percent for every $2,000 of AGI in excess of $15,000 until the percentage reaches 20 percent. The Administration proposes to permanently increase the credit's AGI phase-out level from $15,000 to $75,000. Consequently, the percentage of expenses for which the credit may be claimed would decrease at a rate of 1 percent for every $2,000 of AGI over the $75,000 threshold until the percentage reaches 20 percent. The amount eligible for the credit would not be indexed for inflation. A similar proposal was in the Obama Administration's FY 2013 budget. Costs $8.775 billion over 10 years.

Extend Exclusion from Income for Cancellation of Certain Home Mortgage Debt

Under current law, discharges of qualified principal residence indebtedness are excluded from calculations of gross income. The Administration proposes to extend this provision to exclude amounts that are discharged before 2015 or that are discharged pursuant to an agreement entered into before 2016. Costs $2.610 billion over 10 years.

Provide Exclusion from Income for Student Loan Forgiveness for Students in Certain Income-based or Income-contingent Repayment Programs Who Have Completed Payment Obligations

In general, loan amounts that are forgiven are considered gross income to the borrower and subject to individual income tax in the year of discharge. Borrowers under the Department of Education's Federal Direct Loan Program or Federal Family Education Loan Program are considered to have repaid their loan obligation once they have repaid the loan in full or made required payments on those loans for 25 years. For those who reach the 25-year point, any remaining loan balance is forgiven. Under the proposal, loan balances forgiven under such circumstances would not be included in income. A similar proposal was in the Obama Administration's FY 2013 budget. Costs $2 million over 10 years.

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Provide Exclusion from Income for Student Loan Forgiveness and Certain Scholarship Amounts for Participants in the Indian Health Service ("IHS") Health Professions Programs

Under current law, loan amounts that are forgiven are generally considered gross income to the borrower and subject to individual income tax in the year of discharge. However, loan amounts that are forgiven or discharged under the National Health Service Corps Loan Repayment Program or similar state loan repayment programs are not included in gross income. Scholarship amounts for tuition and related expenses are also generally excluded from income, except for scholarship amounts that represent payment for teaching, research, and other services. The Administration's proposal would extend the exception to scholarship amounts received from the IHS Health Professions Loan Repayment Program and the IHS Health Professions Scholarship Program. These programs would improve access to medical care for Indian and Alaska Natives by providing physicians and other health professionals to IHS facilities. The proposal would be effective for tax years beginning after December 31, 2013. Costs $155 million over 10 years.

Upper Income Tax Provisions

Reduce the Value of Certain Tax Expenditures

Current law permits the allowable portion of an individual taxpayer's itemized deductions to reduce the amount of taxable income. The proposal would limit the value of all itemized deductions and certain other tax expenditures by limiting the tax value of those deductions and expenditures to 28 percent whenever they would otherwise reduce taxable income. This limitation, which would be effective beginning in 2013, would only affect taxpayers with 33-percent, 35-percent, or 39.6-percent tax brackets and would apply to itemized deductions, tax-exempt interest, employer-sponsored health insurance, deductions and income exclusions for employee retirement contributions, and certain "above-the-line" deductions. This proposal is similar to one proposed in the Obama Administration's FY 2013 budget. Raises $529.261 billion over 10 years.

Implement the Buffett Rule by Imposing a New "Fair Share Tax"

Under current law, individual taxpayers may reduce their taxable income by excluding certain types or amounts of income and claiming certain deductions in the computation of AGI. According to the Administration, deductions significantly reduce tax liability for high-income taxpayers, particularly from the preferentially low tax rates on dividends and capital gains. The proposal would impose a new minimum tax, called the Fair Share Tax (FST), on high-income taxpayers. The tentative FST would equal 30 percent of AGI less a credit for charitable contributions. The Buffet rule would apply for taxpayers with $1 million or more AGI. The proposal would be effective for tax years beginning after December 31, 2013. Raises $53.387 million over 10 years.

Modify Estate and Gift Tax Provisions

Restore the Estate, Gift, and Generation-Skipping Transfer (GST) Tax Parameters in Effect in 2009

In 2009, the estate tax provided for an estate tax and GST exemption of $3.5 million and a top rate of 45 percent and a gift tax exemption of $1 million. In 2011 and 2012, the estate and gift taxes provide for a $5 million exemption and a top rate of 35 percent. The passage of the American Taxpayer Relief Act set the current estate, GST, and gift tax rate at 40 percent, and each individual has a lifetime

exclusion for all three types of taxes of $5 million (index after 2011 for inflation from 2010). The proposal would reinstate the estate and gift tax parameters in effect in 2009 and would be effective for the estates of decedents dying, and for transfers made, after December 31, 2017. A similar proposal was in the Obama Administration's FY 2013 budget. Costs $71.693 billion over 10 years.

Require Consistency in Value for Transfer and Income Tax Purposes

This proposal would impose both a consistency and a reporting requirement. The basis of property received by reason of death under section 1014 must equal the value of that property for estate tax purposes. The basis of property received by gift during the life of the donor must equal the donor's basis determined under section 1015. The basis of property acquired from a decedent to whose estate section 1022 is applicable is the basis of that property, including any additional basis allocated by the executor, as reported on the Form 8939 that the executor filed. This proposal would require that the basis of such property in the hands of the recipient be no greater than the value of that property as determined for estate or gift tax purposes. A reporting requirement would be imposed on the executor of the decedent's estate and on the donor of a lifetime gift to provide the necessary valuation and basis information to both the recipient and the IRS. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $1.896 billion over 10 years.

Require Minimum Term for GRATs

A fixed annuity, such as the annuity interest retained by the grantor of a Grantor Retained Annuity Trust ("GRAT"), is one form of qualified interest, so the gift of the remainder interest in the GRAT is determined by deducting the present value of the retained annuity during the GRAT term from the fair market value of the property contributed to the trust. This proposal would require, in effect, some downside risk in the use of this technique by imposing the requirement that a GRAT have a minimum term of 10 years and a maximum term of 10 years more than the annuitant's life expectancy. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $3.894 billion over 10 years.

Limit Duration of Generation Skipping Transfer Tax Exemption

The generation skipping transfer ("GST") tax is imposed on gifts and bequests to transferees who are two or more generations younger than the transferor. The GST tax was enacted to "backstop" the estate and gift tax system by preventing the avoidance of those taxes through the use of a trust that gives successive life interests to multiple generations of beneficiaries. This proposal would provide that the generation skipping transfer exclusion allocated to the trust would expire. A similar proposal was in the Obama Administration's FY 2013 budget. Negligible revenue effect.

Coordinate Certain Income and Transfer Tax Rules Applicable to Grantor Trusts

A grantor trust is ignored for income tax purposes, even though the trust may be irrevocable and the deemed owner has no beneficial interest in the trust or its assets. The lack of coordination between the income tax and transfer tax rules applicable to a grantor trust creates opportunities to structure transactions between the trust and its deemed owner that are ignored for income tax purposes and can result in the transfer of significant wealth by the deemed owner. The Administration proposes to change the rules so that to the extent that a grantor of a trust is deemed to be an owner for income tax purposes, the trust's assets would be included in that grantor's gross estate for estate tax purposes and would be subject to gift tax at any time during that grantor's life when the grantor ceased to be treated

as an owner for income tax purposes. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $1.087 billion over 10 years.

Extend the Lien on Estate Tax Deferrals Provided under Section 6166 of the Internal Revenue Code

There is a lien on nearly all estate assets for the 10-year period following a decedent's death. However, when the estate tax payments on interests in certain closely held businesses are deferred under section 6166, this lien expires approximately 5 years before the due date of the final payment of the deferred tax. The Administration is proposing extending the lien throughout the section 6166 deferral period. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $160 million over 10 years.

Clarify Generation-skipping Transfer (GST) Tax Treatment of Health and Education Exclusion Trusts (HEETs)

Current law provides that payments made by a donor for another's medical care or tuition are exempt from gift tax under section 2503. Under section 2611, GST tax does not apply to any transfer that is exempt from the gift tax under section 2503. The Administration believes that taxpayers have interpreted this exemption to extend to HEETs, which provide for medical expenses and tuition of multiple generations of descendants. The proposal would clarify that the exclusion from GST under section 2611 only applies to a payment by a donor directly to the provider of medical care or to a school in payment of tuition and not to trust distributions, even if for the same purposes. The proposal would apply to trusts created after introduction of a bill proposing this change and to transfers after that date made to pre-existing trusts. Costs $171 million over 10 years.

Reform Treatment of Financial Industry Institutions and Products

Impose a Financial Crisis Responsibility Fee

The Administration proposes to assess a Financial Crisis Responsibility Fee to recoup TARP losses and to discourage excessive leverage. The fee would apply to U.S.-based bank holding companies, thrift holding companies, certain broker-dealers, companies that control certain broker-dealers, and insured depository institutions. Firms with worldwide consolidated assets of less than $50 billion would not be subject to the fee for the period when their assets are below this threshold. U.S. subsidiaries of foreign firms that fall into these categories and that have assets in excess of $50 billion also would be covered.

The fee would be based on the covered liabilities of a financial firm. The rate of the fee is 17 basis points (reduced by 50 percent for more stable sources of funding, including long-term liabilities). The fee would be tax deductible. The fee would be effective as of January 1, 2015. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $59.349 billion over 10 years.

Require Current Inclusion in Income of Accrued Market Discount and Limit the Accrual Amount for Distressed Debt

Market discount is the difference between a bond's acquisition price in the secondary market and its stated redemption price at maturity. Market discount that accrues while a taxpayer holds a bond is taxable when the bond matures or is disposed of, and is treated as ordinary income up to the amount of gain recognized on the disposition of the bond. The Administration proposes to align the market

discount rules with the original issue discount (OID) rules, which require the inclusion of the discount annually. The accrual of market discount would be limited to the greater of an amount of a bond's yield to maturity at issuance plus 5 percentage points or an amount equal to the applicable federal rate plus 10 percentage points. The proposal would apply to debt securities acquired after December 31, 2013. Raises $1.226 billion over 10 years.

Require that the cost basis of stock that is a covered security must be determined using an average cost basis method

When selling or disposing identical shares of stock that have a different cost basis, a taxpayer can identify the specific shares of stock sold, and therefore determine the amount of gain or loss to be recognized according to the basis of each share. The Administration believes that this "specific identification" method allows taxpayers to manipulate recognition of gain or loss on fungible shares of portfolio stock. The Administration proposes that taxpayers use the average basis for all identical shares of portfolio stock held by a taxpayer that have a long-term holding period, in line with the rules currently permitted for registered investment company stock. Shares held by a taxpayer in a nontaxable account, such as an IRA, would not be subject to the average basis requirement. The proposal would apply to portfolio stock acquired on or after January 1, 2014. Raises $2.069 billion over ten years.

Other Revenue Changes and Loophole Closers

Increase Oil Spill Liability Trust Fund

Under current law, an excise tax is imposed on domestic crude oil, imported petroleum products, and any domestically produced crude oil that is used in or exported from the U.S. at a rate of 8 cents per barrel (9 cents per barrel after December 31, 2016). The tax is deposited in the Oil Spill Liability Trust Fund to pay costs associated with oil removal and damages resulting from oil spills, as well as other purposes. The proposal would increase the rate of the Oil Spill Liability Trust Fund tax to 9 cents per barrel for periods beginning on January 1, 2014, and to 10 cents per barrel for periods after December 31, 2017. The proposal also updates the law to include other sources of crude oil, including bituminous deposits as well as kerogen-rich rock. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $1.058 billion over 10 years.

Reinstate Superfund Excise Taxes and Environmental Income Tax

The Administration proposes to reinstate the taxes that were deposited in the Hazardous Substance Superfund prior to their expiration on December 31, 1995. These taxes, which financed the cleanup of hazardous waste sites, include the following: (1) a 9.7-cents-per-barrel excise tax on domestic and imported crude oil and petroleum products; (2) an excise tax on listed hazardous chemicals at rates that vary from 22 cents to $4.87 per ton; (3) an excise tax on imported substances that use as materials in their manufacture one or more of the listed hazardous chemicals; and (4) the corporate environmental income tax imposed at a rate of 0.12 percent on the amount by which the modified AMT income of a corporation exceeds $2 million. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $20.205 billion over 10 years.

Increase Tobacco Taxes and Index for Inflation

Under current law, an excise tax is imposed on tobacco products, including cigarettes, roll-your-own tobacco, pipe tobacco, and cigars. These rates are not index for inflation. The Administration

proposes to increase excise taxes on cigarettes from $1.01 to about $1.95 per pack and increase all other excise taxes on tobacco products and cigarette papers and tube by roughly the same proportion beginning in 2014. The proposal would also clarify that roll-your-own tobacco includes any processed tobacco that is removed or transferred for delivery to anyone without a proper permit, excluding export shipments of processed tobacco. Raises $78.091 billion over ten years.

Make Unemployment Insurance Surtax Permanent

The Federal Unemployment Tax Act ("FUTA") currently imposes a federal payroll tax on employers of 6.0 percent of the first $7,000 paid annually to each employee. Before July 1, 2011, the federal payroll tax had included a temporary surtax of 0.2 percent, which was added to the permanent FUTA tax rate. The surtax had been extended several times since its enactment in 1976, but it expired on July 1, 2011. The proposal would make the 0.2 percent surtax permanent on or after January 1, 2014 to support the continued solvency of the federal unemployment trust funds. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $15.155 billion over 10 years.

Expand FUTA Base

The FUTA currently imposes a federal payroll tax on employers of 6.0 percent of the first $7,000 paid annually to each employee. Generally, these funds support the administrative costs of the unemployment insurance ("UI") benefits system. Employers in states that meet certain federal requirements are allowed a credit against FUTA taxes of up to 5.4 percent, making the minimum net federal rate 0.6 percent. States that become non-compliant experience a reduction in FUTA credit, causing employers to face a higher federal UI tax. The proposal would provide short-term relief to employers by suspending interest payments on state UI debt and suspending the FUTA credit reduction for employers in borrowing states in 2013 and 2014. The proposal would also raise the FUTA wage base to $15,000 per worker paid annually in 2016, index the wage base to wage growth for subsequent years, and reduce the net federal UI tax from 0.8 percent (after the proposed permanent extension of the FUTA surtax) to 0.37 percent. States with wage bases below $15,000 would need to conform to the new FUTA base. States would maintain the ability to set their own tax rates, as under current law. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $51.481 billion over 10 years.

Tax Carried (Profits) Interests as Ordinary Income

Under current law, carried interest income is taxed at capital gains rates rather than at ordinary income tax rates. The Administration's proposal would designate a carried interest in an investment partnership as an "investment services partnership interest" and would generally tax a partner's share of income from this interest as ordinary income. In addition, the proposal would require the partner to pay self-employment taxes on such income, and the gain recognized on the sale of an "investment services partnership interest" would generally be treated as ordinary income, not a capital gain. The proposal would also treat any allocation of income or gain attributable to invested capital by the partner as ordinary income or capital gain based on its character to the partnership. The proposal would be effective for tax years ending after December 31, 2013. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $15.509 billion over 10 years.

Treasury Releases "Green Book" of Obama Administration FY 2014 Tax Priorities

Eliminate the Deduction for Contributions of Conservation Easements on Golf Courses

Under current law, a donor may deduct the value of a conservation easement (a partial interest) that is donated to a qualified charitable organization exclusively for conservation purposes. The value of the deduction for any contribution that produces a return benefit to the donor must be reduced by the value of the benefit received. Recent court decisions have upheld large deductions taken for contributions of easements preserving recreational amenities, including golf courses. The proposal would amend the charitable contribution deduction provision to prohibit a deduction for any contribution of property that is, or is intended to be, used as a golf course. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $619 million over 10 years.

Restrict Deductions and Harmonize the Rules for Contributions of Conservation Easements for Historic Preservation

Current law allows a donor to deduct the value of a conservation easement (a partial interest) that is donated to a qualified charitable organization exclusively for conservation purposes, including for the preservation of certain certified historic structures. Concerns have been raised that the deduction amounts claimed for historic preservation easements are excessive and may not appropriately take into account existing limitations on the property. The proposal would disallow a deduction for any value of an historic preservation easement associated with forgone upward development above an historic building. It would also require contributions of conservation easements on buildings listed in the National Register to comply with the same special rules currently applicable to buildings in a registered historic district. Raises $234 million over 10 years.

Require Non-Spouse Beneficiaries of Deceased Individual Retirement Account or Annuity ("IRA") Owners and Retirement Plan Participants to Take Inherited Distributions Over No More Than 5 Years

Under current law, minimum distribution rules apply to balances remaining after a plan participant or IRA owner has died. Under the proposal, non-spouse beneficiaries of retirement plans and IRAs would generally be required to take distributions over no more than five years. Exceptions would be provided for certain eligible beneficiaries. Raises $4.911 billion over 10 years.

Limit the Total Accrual of Tax-Favored Retirement Benefits

Under the proposal, a taxpayer who has accumulated amounts within the tax-favored retirement system (i.e., IRAs, section 401(a) plans, section 403(b) plans, and funded section 457(b) arrangements maintained by governmental entities) in excess of the amount necessary to provide the maximum annuity permitted for a tax-qualified defined benefit plan under current law (currently an annual benefit of $205,000 payable in the form of a joint and 100 percent survivor benefit commencing at age 62 and continuing each year for the life of the participant and, if later, the life of the participant's spouse) would be prohibited from making additional contributions or receiving additional accruals under any of those arrangements. Currently, the maximum permitted accumulation for an individual age 62 is approximately $3.4 million. If a taxpayer reached the maximum permitted accumulation, no further contributions or accruals would be permitted, but the taxpayer's account balance could continue to grow with investment earnings and gains. Raises $9.342 billion over 10 years.

Treasury Releases "Green Book" of Obama Administration FY 2014 Tax Priorities

Reduce the Tax Gap and Make Reforms

Expand Information Reporting

Require Information Reporting for Private Separate Accounts of Life Insurance Companies

Under current law, investments in comparable assets through a separate account of a life insurance company generally give rise to tax-free or tax-deferred income. The proposal would require information reporting with regard to each life insurance or annuity contract whose investment in a separate account represents at least 10 percent of the value of the account. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $7 million over 10 years.

Require a Certified Taxpayer Identification Number from Contractors and Allow Certain Withholding

Under the proposal, a contractor receiving payments of $600 or more in a calendar year from a particular business would be required to furnish to the business the contractor's certified tax identification number. Additionally, contractors receiving payments of $600 or more in a calendar year from a particular business could require the business to withhold a flat-rate percentage of their gross payments. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $1.264 billion over 10 years.

Modify Reporting of Tuition Expenses and Scholarships on Form 1098-T

Form 1098-T is used to verify education spending for education-related tax benefits. The proposal would require institutions of higher learning to report amounts paid and not amounts billed on the Form 1098-T. The proposal would also require any entity issuing a scholarship or grant in excess of $500 that is not processed or administered by an institution of higher learning to report the scholarship or grant on Form 1098-T. Raises $1.095 billion over 10 years.

Improve Compliance by Businesses

Require Greater Electronic Filing of Returns

Under the proposal, all corporations and partnerships required to file Schedule M-3 would be required to file their tax returns electronically. In the case of certain other large taxpayers not required to file Schedule M-3 (such as exempt organizations) and in the case of information returns such as Forms 1099, 1098, 1096, and 5498, the regulatory authority to require electronic filing would be expanded to allow reduction of the current threshold of filing 250 or more returns during a calendar year. A similar proposal was in the Obama Administration's FY 2013 budget. Negligible revenue effect.

Make E-Filing Mandatory for Exempt Organizations

The proposal would require all tax-exempt organizations that must file Form 990 series returns to file them electronically. Negligible revenue effect.

Treasury Releases "Green Book" of Obama Administration FY 2014 Tax Priorities

Authorize the Department of Treasury to Require Additional Information to Be Included in Electronically Filed Form 5500 Annual Reports and Electronic Filing of Certain Other Employee Benefit Plan Reports

The proposal would provide the IRS the authority to require in the electronically filed annual reports the inclusion of information that is relevant only to employee benefit plan tax requirements, giving the IRS authority with respect to such tax information comparable to that the Department of Labor already has with respect to information relevant to ERISA Title I. The proposal would also provide the IRS with the authority to require electronic filing of Form 8955-SSA, which was previously the registration statement filed as a schedule to the Form 5500 A similar proposal was in the Obama Administration's FY 2013 budget. Negligible revenue effect.

Implement Standards Clarifying When Employee Leasing Companies Can Be Held Liable for Their Clients' Federal Employment Taxes

Employers are required to withhold and pay federal employment taxes (FICA and FUTA taxes) with respect to wages paid to their employees. Liability for federal employment taxes generally lies with the taxpayer. Employee leasing is the practice of contracting with an outside business to handle certain administrative, personnel, and payroll matters for a taxpayer's employees. The proposal would set forth standards for holding employee leasing companies jointly and severally liable with their clients for federal employment taxes. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $69 million over 10 years.

Increase Certainty with Respect to Worker Classification

For both tax and non-tax purposes, workers must be classified into one of two mutually exclusive categories: employees or self-employed (sometimes referred to as independent contractors). Since 1978, the IRS has not been permitted to issue general guidance addressing worker classification, and in many instances has been precluded from reclassifying workers – even prospectively – who may have been misclassified. The proposal would permit the IRS to require prospective reclassification of workers who are currently misclassified and whose reclassification has been prohibited under current law, and Treasury and the IRS also would be permitted to issue generally applicable guidance on the proper classification of workers under common law standards. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $9.097 billion over 10 years.

Repeal Special Estimated Tax Payment Provision for Certain Insurance Companies

The deductible unpaid loss reserves of insurance companies are required to be computed on a discounted basis to reflect the time value of money. However, a taxpayer may elect to deduct an additional amount equal to the difference between discounted and undiscounted reserves, if it also makes a "special estimated tax payment" equal to the tax benefit attributable to the extra deduction. The special estimated tax payments are applied against the company's tax liability in future years as reserves are released. The Administration is proposing repealing the provision effective for tax years beginning after December 31, 2012. A similar proposal was in the Obama Administration's FY 2013 budget. Negligible revenue effect.

Strengthen Tax Administration

Treasury Releases "Green Book" of Obama Administration FY 2014 Tax Priorities

Impose Liability on Shareholders Participating in "Intermediary Transaction Tax Shelters" to Collect Unpaid Corporate Income Taxes

"Intermediary Transaction Tax Shelters" are listed transactions that require disclosure on a tax return to avoid certain penalties. These transactions are structured so that when a C corporation's assets are sold, the C corporation is ultimately left with insufficient assets from which to pay the tax owed from the asset sale. The proposal would impose liability on shareholders who enter into an Intermediary Transaction Tax Shelter. The proposal applies to shareholders who, directly or indirectly, dispose of a controlling interest (at least 50 percent) in exchange for consideration other than stock issued by the acquirer of the C corporation stock. The amount of a shareholder's liability would equal the lesser of the value of the total proceeds received by the shareholder for the disposed of stock or the income tax liability the C corporation would have had if it had liquidated in a fully taxable transaction on the date that at least 50 percent of its stock was sold, decreased by the income tax paid by the C corporation with respect to tax years beginning or ending within 12 months of the date that at least 50 percent of its stock was sold, and increased by any unpaid penalties, additions to tax, and interest owed by the C corporation. Raises $4.947 billion over 10 years.

Increase Levy Authority for Payments to Medicare Providers with Delinquent Tax Debt

Treasury is authorized to continuously levy up to 15 percent of a payment to a Medicare provider in order to collect delinquent tax debt. The proposal would allow Treasury to levy up to 100 percent of a payment to a Medicare provider to collect unpaid taxes. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $707 million over 10 years.

Implement a Program Integrity Statutory Cap Adjustment for the IRS

The proposal would provide a multi-year program integrity cap adjustment for IRS tax enforcement, compliance and related activities through an amendment to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Control Act of 2011. The proposed cap adjustment for 2014 will fund about $400 million in new revenue-producing initiatives above current levels of enforcement and compliance activity. Beyond 2014, the Administration proposes further increases in additional revenue-generating initiatives from 2015 through 2018 and to fund all of the new initiatives and inflationary costs via cap adjustments through FY 2023. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $46.502 billion over 10 years.

Streamline Audit and Adjustment Procedures for Large Partnerships

The Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") established unified audit rules applicable to all but certain small partnerships. Because the TEFRA audit and adjustment procedures for large partnerships were inefficient and more complex than those for other large entities, the Taxpayer Relief Act of 1997 established streamlined audit and adjustment procedures, as well as a simplified reporting system, for electing large partnerships. Few large partnerships have elected into the streamlined procedures. The proposal would mandate the streamlined procedures, but not the simplified reporting system, for any partnership that has 1,000 or more partners at any time during the taxable year, a "Required Large Partnership." The proposal would apply to a partnership's taxable year ending on or after the date that is two years from the date of enactment. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $1.873 billion over 10 years.

Treasury Releases "Green Book" of Obama Administration FY 2014 Tax Priorities

Revise Offer-In-Compromise Application Rules

Current law provides that the IRS may compromise any civil or criminal case arising under the internal revenue laws prior to a reference to the Department of Justice for prosecution or defense. In 2006, a new provision was enacted to require taxpayers to make certain nonrefundable payments with any initial offer-in-compromise of a tax case. The proposal would eliminate the requirements that an initial offer-in-compromise include a nonrefundable payment of any portion of the taxpayer's offer. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $10 million over 10 years.

Expand IRS Access to Information in the National Directory of New Hires for Tax Administration Purposes

The Office of Child Support Enforcement of the Department of Health and Human Services maintains the National Directory of New Hires ("NDNH"), which is a database that contains data from Form W-4 for newly hired employees, quarterly wage data from state workforce and federal agencies for all employees, and unemployment insurance data from state workforce agencies for all individuals who have applied for or received unemployment benefits. The NDNH was created to help state child support enforcement agencies enforce obligations of parents across state lines. The proposal would amend the Social Security Act to expand IRS access to NDNH data for general tax administration purposes, including data matching, verification of taxpayer claims during return processing, preparation of substitute returns for non-compliant taxpayers, and identification of levy sources. A similar proposal was in the Obama Administration's FY 2013 budget. Negligible revenue effect.

Make Repeated Willful Failure to File a Tax Return a Felony

Current law provides that willful failure to file a tax return is a misdemeanor punishable by a term of imprisonment for not more than one year, a fine of not more than $25,000 ($100,000 in the case of a corporation), or both. The proposal would provide that any person who willfully fails to file tax returns in any three years within any five consecutive year period, if the aggregated tax liability for such period is at least $50,000, would be subject to a new aggravated failure to file criminal penalty. The proposal would classify such failure as a felony and, upon conviction, impose a fine of not more than $250,000 ($500,000 in the case of a corporation) or imprisonment for not more than five years, or both. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $10 million over 10 years.

Facilitate Tax Compliance with Local Jurisdictions

Although federal tax returns and return information ("FTI") generally are confidential, the IRS and Treasury Department may share FTI with states as well as certain local government entities that are treated as states for this purpose. The purpose of information sharing is to facilitate tax administration. Indian Tribal Governments ("ITGs") are treated as states by the tax law for several purposes, such as certain charitable contributions, excise tax credits, and local tax deductions, but not for purposes of information sharing. For purposes of information sharing, the proposal would treat as states those ITGs that impose alcohol, tobacco, or fuel excise or income or wage taxes, to the extent necessary for ITG tax administration. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $15 million over 10 years.

Treasury Releases "Green Book" of Obama Administration FY 2014 Tax Priorities

Extend Statute of Limitations Where State Adjustment Affects Federal Tax Liability

In general, additional federal tax liabilities in the form of tax, interest, penalties, and additions to tax must be assessed by the IRS within three years after the date a return is filed. The proposal would create an additional exception to the general three-year statute of limitations for assessment of federal tax liability resulting from adjustments to state or local tax liability. The statute of limitations would be extended to the greater of: (1) one year from the date the taxpayer first files an amended tax return with the IRS reflecting adjustments to the state or local tax return; or (2) two years from the date the IRS first receives information from the state or local revenue agency under an information sharing agreement in place between the IRS and a state or local revenue agency. The statute of limitations would be extended only with respect to the increase in federal tax attributable to the state or local tax adjustment. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $29 million over 10 years.

Improve Investigative Disclosure Statute

Generally, tax return information is confidential, unless a specific exception in the Code applies. In the case of tax administration, the Code permits Treasury and the IRS officers and employees to disclose return information to the extent necessary to obtain information that is not otherwise reasonably available in the course of an audit or investigation. Determining if an investigative disclosure is "necessary" is inherently factual, leading to inconsistent opinions by the courts. The proposal would clarify the taxpayer privacy law by stating that the law does not prohibit Treasury and the IRS officers and employees from identifying themselves, their organizational affiliation, and the nature and subject of an investigation, when contacting third parties in connection with a civil or criminal tax investigation. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $10 million over 10 years.

Require Taxpayers Who Prepare Their Returns Electronically but File Their Returns on Paper to Print Their Returns with a 2-D Bar Code

The proposal would require all taxpayers who prepare their tax returns electronically but print their returns and file them on paper to print their returns with a 2-D bar code that can be scanned by the IRS to convert the paper return into an electronic format. A similar proposal was in the Obama Administration's FY 2013 budget. Negligible revenue effect.

Allow the IRS to Absorb Credit and Debit Card Processing Fees for Certain Tax Payments

Section 6311 permits the IRS to receive payment of taxes by any commercially acceptable means that the Secretary deems appropriate. Taxpayers may make credit or debit card payments by phone through IRS-designated third party service providers, but these providers charge the taxpayer a convenience fee over and above the taxes due. The proposal would amend Section 6311(d) to allow the IRS to accept credit or debit card payments directly from taxpayers and to absorb the credit and debit card processing fees for certain tax payments, without charging a separate processing fee to the taxpayer. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $19 million over 10 years.

Treasury Releases "Green Book" of Obama Administration FY 2014 Tax Priorities

Extend IRS Math Error Authority in Certain Circumstances

Section 6213(b) contains certain exceptions to the general deficiency procedures by granting the IRS authority to correct certain mathematical or clerical errors made on tax returns to reflect the taxpayer's correct tax liability, or "math error authority." Such errors include math errors, inconsistent entries on tax forms, and omissions of correct taxpayer identification numbers necessary to claim certain credits. Use of math error authority can be an efficient use of IRS resources. The proposal would add two items to the list of circumstances where the IRS has math error authority: (1) a taxpayer claimed a deduction or credit in excess of a lifetime limit; and (2) a taxpayer claimed the earned income tax credit during a period of disallowance under section 32(k). A similar proposal was in the Obama Administration's FY 2013 budget. Raises $185 million over 10 years.

Impose a Penalty on Failure to Comply with Electronic Filing Requirements

Under current law, additions to tax are imposed for the failure to file tax returns reporting a liability. For failure to file a corporate return, the addition to tax is 5 percent of the amount required to be shown as tax due on the return, for the first month of failure, and an additional 5 percent for each month or part of a month thereafter, up to a maximum of 25 percent. The proposal would establish an assessable penalty for a failure to comply with a requirement of electronic format for a return that is filed. The amount of the penalty would be $25,000 for a corporation or $5,000 for a tax-exempt organization. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $10 million over 10 years.

Restrict Access to Death Master File ("DMF")

The DMF is a publicly available list of deceased individuals maintained by the Social Security Administration (SSA) that is updated weekly. The proposal would restrict immediate access to the DMF to those users who legitimately need the information for fraud prevention purposes and to delay the release of the DMF for three years to all other users. Raises $1.303 billion over 10 years.

Provide Whistleblowers with Protection from Retaliation

Current law allows whistleblowers to file claims for an award where the whistleblower submitted information that allowed the IRS to detect tax underpayments or detect and bring to trial and punishment persons guilty of violating the internal revenue laws. The proposal would amend the current law to explicitly protect whistleblowers from retaliatory actions, consistent with the protections currently available to whistleblowers under the False Claims Act. Negligible revenue effect.

Provide Stronger Protection from Improper Disclosure of Taxpayer Information in Whistleblower Actions

Current law imposes safeguarding requirements on certain disclosures of tax return information. The proposal would extend the safeguarding requirements to apply to whistleblowers and their legal representatives who receive tax return information in whistleblower administrative proceedings. In addition, the proposal extends the penalties for unauthorized inspections and disclosures of tax return information to whistleblowers and their legal representatives. Negligible revenue effect.

Treasury Releases “Green Book” of Obama Administration FY 2014 Tax Priorities

Index All Penalties to Inflation

Currently, there are numerous penalty provisions where a fixed penalty amount was established when the penalty was initially enacted into law. These provisions contain no mechanism to adjust the amount of the penalty for inflation, and thus, these penalties are only increased by amending the law. The proposal would index all penalties to inflation and round the indexed amount to the next hundred dollars. Raises $10.759 billion over 10 years.

Extend Paid Preparer Earned Income Tax Credit (“EITC”) Due Diligence Requirements to Child Tax Credit

Under current law, paid income tax preparers who fail to meet EITC due diligence requirements, including completing and filing a checklist, may face a penalty of $500 for each return for which the requirement was not met. The proposal would extend the due diligence requirement to include all federal income tax returns that claim the child tax credit, including the additional child tax credit. Negligible revenue effect.

Extend IRS Authority to Require a Truncated Social Security Number on Form W-2

Currently, employers are required to furnish written statements to their employees containing certain information and such statements require the inclusion of the employee’s social security number. The proposal would revise the requirement to instead require employers to include an “identifying number” for each employee, rather than an employee’s social security number, on Form W-2. Negligible revenue effect.

Add Tax Crimes to Aggravated Identity Theft Statute

The Aggravated Identity Theft Statute permits an increased sentence when the identity of another individual is used to commit certain crimes that are enumerated in the statute. The proposal would add tax-related offenses to the enumerated list. Negligible revenue effect.

Impose a Civil Penalty on Tax Identity Theft Crimes

Current law does not impose a civil penalty for tax-related identity theft. The proposal would add a $5,000 civil penalty to be imposed in tax identity theft cases on the individual who filed the fraudulent return. Negligible revenue effect.

Simplify the Tax System

Simplify the Rules for Claiming the EITC for Workers without Qualifying Children

Under current law, an otherwise eligible worker living in a household with an eligible child may claim that child for purposes of the EITC. Additionally, taxpayers with low wages who do not have any qualifying children may be eligible to claim a small EITC. However, if the taxpayer resides with a qualifying child whom the taxpayer does not claim (perhaps because that child is claimed by another individual within the household), the taxpayer is not eligible for any EITC. The Administration is proposing allowing otherwise eligible workers living with qualifying children to claim the EITC for workers without qualifying children. A similar proposal was in the Obama Administration’s FY 2013 budget. Costs $5.389 billion over 10 years.

Treasury Releases "Green Book" of Obama Administration FY 2014 Tax Priorities

Modify Adoption Credit to Allow Tribal Determination of Special Needs

Indian Tribal Governments (ITGs) do not have the authority under current law to determine if a credit for qualified adoption expenses is allowable to an individual adopting a special needs child. The proposal would amend the tax credit for qualified adoption expenses to allow ITGs to determine that a credit is allowable in the case of adoption of a special needs child. Costs 5 million over 10 years.

Eliminate Minimum Required Distribution Rules for Certain IRA or Annuity Plan Balances

The proposal would exempt an individual from minimum required distribution ("MRD") rules if the aggregate value of the individual's IRAs and tax-favored retirement plan accumulations does not exceed $75,000 (indexed for inflation). The MRD requirements would phase in ratably for individuals with aggregate retirement benefits between $75,000 and $85,000. A similar proposal was in the Obama Administration's FY 2013 budget. Costs $222 million over 10 years.

Allow All Inherited Plan, IRA, and Annuity Balances to Be Rolled Over within 60 Days

Under current law, spouse beneficiaries may roll over plan, IRA, and annuity balances within 60 days. Non-spouse beneficiaries may only directly roll over these types of assets. The proposal would allow non-spouse beneficiaries to roll over these types of assets within 60 days. A similar proposal was in the Obama Administration's FY 2013 budget. Negligible revenue effect.

Repeal Non-Qualified Preferred Stock Designation

Under current law, non-qualified preferred stock ("NQPS") is treated as taxable "boot" for certain purposes, but is otherwise treated as stock. The Administration believes this adds complexity to the tax code and results in inconsistent treatment. The proposal would repeal provisions in the code treating NQPS as "boot." The proposal would be effective for stock issued after December 31, 2012. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $361 million over 10 years.

Repeal Preferential Dividend Rule for Publicly Traded REITs

The proposal would repeal the preferential dividend rule for publicly traded REITs. Treasury would be given authority to provide for cures of inadvertent violations of the preferential dividend rule where it continues to apply and require consistent treatment of shareholders. A similar proposal was in the Obama Administration's FY 2013 budget. Negligible revenue effect.

Reform Excise Tax Based on Investment Income of Private Foundations

This proposal would replace the two rates of tax on private foundations that are exempt from federal income tax with a single tax rate of 1.35 percent. The tax on private foundations not exempt from federal income tax would be equal to the excess (if any) of the sum of the 1.35 percent excise tax on net investment income and the amount of the unrelated business income tax that would have been imposed if the foundation were tax exempt, over the income tax imposed on the foundation. The special reduced excise tax rate available to tax-exempt private foundations that maintain their historic level of charitable distributions would be repealed. A similar proposal was in the Obama Administration's FY 2013 budget. Costs $54 million over 10 years.

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Remove Bonding Requirements for Certain Taxpayers Subject to Federal Excise Taxes on Distilled Spirits, Wine, and Beer

The proposal would reduce the frequency with which certain distilled spirits, wines, and beer taxpayers must file alcohol excise tax forms and revise bond requirements for small taxpayers. The proposal would require any distilled spirits, wines, and beer taxpayer who reasonably expects to be liable for not more than $50,000 per year in alcohol excise taxes (and who was liable for not more than $50,000 of such taxes in the preceding year) to file and pay such taxes quarterly, rather than semi-monthly. The proposal would also create an exemption from the bond requirement in the Internal Revenue Code for these small taxpayers. The proposal would allow any distilled spirits, wine, or beer taxpayer with a reasonably expected alcohol excise tax liability of not more than $1,000 per year to file and pay such taxes annually rather than quarterly. The proposal will create parity among alcohol taxpayers by allowing eligible distilled spirits and beer taxpayers to file annually, like wineries. The proposal would be effective 90 days after the date of enactment. Negligible revenue effect.

Simplify Arbitrage Investment Restrictions

The proposal would unify yield restriction and rebate, relying on arbitrage rebate as the principal type of arbitrage restriction on tax-exempt bonds. The proposal would provide a broader streamlined three-year spending exception to arbitrage rebate for tax-exempt bonds meeting certain requirements. The proposal would increase the small-user exception to the arbitrage rebate requirement to tax-exempt bonds from $5 million to $10 million and index the size for inflation. A similar proposal was in the Obama Administration's FY 2013 budget. Costs $518 million over 10 years.

Simplify Single-Family Housing Mortgage Bond Targeting Provisions

Current law allows use of tax-exempt qualified mortgage bonds to finance mortgage loans for owner-occupied single-family housing residences, subject to a number of targeting requirements, including, among others: a mortgagor income limitation; a purchase price limitation; refinancing limitation; and a targeted area availability requirement. The proposal would repeal the purchase price limitation and the refinancing limitation on tax-exempt qualified mortgage bonds. A similar proposal was in the Obama Administration's FY 2013 budget. Costs $15 million over 10 years.

Streamline Private Business Limitations on Governmental Bonds

Current law treats tax-exempt bonds issued by state and local governments as governmental bonds if the issuer limits private business use and other private involvement sufficiently to avoid treatment as "private activity bonds." Bonds generally are classified as private activity bonds under a two-part test if more than 10 percent of the bond proceeds are both (i) used for private business use, and (ii) payable or secured from property or payments derived from private business use. Subsidiary restrictions further reduce the permitted thresholds of private involvement for governmental bonds in several ways, including imposing a 5 percent unrelated or disproportionate private business use limit. The proposal would repeal the 5 percent unrelated or disproportionate private business use test under section 141(b)(3) to simplify the private business limits on tax-exempt governmental bonds. A similar proposal was in the Obama Administration's FY 2013 budget. Costs $119 million over 10 years.

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Exclude Self-Constructed Assets of Small Taxpayers from the Uniform Capitalization ("UNICAP") Rules

Current law requires taxpayers that produce property (e.g., construct, build, install, manufacture, develop or improve property) for use in their trade or business or produce or acquire property for resale to capitalize the direct and indirect costs of the property produced or acquired under the UNICAP rules. However, many small taxpayers are unaware that they are subject to the UNICAP rules, particularly with regard to self-constructed assets. The Administration proposes to exempt taxpayers that have annual gross receipts of $10 million or less from the application of UNICAP rules for costs incurred to produce real or personal property for use in a trade or business. Average gross receipts would be calculated based on a taxpayer's three previous taxable years. Costs $799 million over 10 years.

Repeal Technical Terminations of Partnerships

If there is a sale or exchange of 50 percent or more of the total interest in partnership capital and profits within a 12-month period, the partnership is technically treated as having been terminated for U.S. federal income tax purposes. This causes several unanticipated consequences, including the restart of section 168 depreciation lives, the close of a partnership's taxable year, and the loss of partnership level elections. The proposal would repeal the technical termination of a partnership for transfers on or after December 31, 2013. Raises $183 million over 10 years.

Repeal Anti-Churning Rules of Section 197

Section 197 provides that intangibles held or used during a transition period of July 25, 1991 to August 10, 1993 are ineligible for amortization, including when such intangibles are acquired during the transition period or if a taxpayer grants the right to use the intangible to a person who held or used the intangible at any time during the transition period. The Administration proposes to repeal the section 197 rule that makes these intangibles ineligible for amortization. Costs $2.323 billion over ten years.

User Fees

Reform Inland Waterways Funding

The Administration believes that the current excise tax of 20 cents per gallon on fuel used in inland waterway transportation is not generating enough revenue to cover required costs. The Administration proposes establishing a new user fee, increasing the amount paid by commercial navigation users. A similar proposal was in the Obama Administration's FY 2013 budget. Raises $1.100 billion over 10 years.

Other Initiatives

Allow Offset of Federal Income Tax Refunds to Collect Delinquent State Income Taxes for Out-of-State Residents

Under current law, the Treasury refunds a taxpayer who makes an overpayment (by withholding or otherwise) of federal tax. The overpayment amount is reduced by debts of the taxpayer for past-due child support, debts to federal agencies, fraudulently obtained unemployment compensation, and past-due, legally enforceable state income tax obligations. In the latter case, offset is permitted only if the delinquent taxpayer resides in the state seeking the offset. Under the proposal, offset of federal refunds

to collect state income tax would be permissible regardless of where the delinquent taxpayer resides. A similar proposal was in the Obama Administration's FY 2013 budget. Negligible revenue effect.

Authorize the Limited Sharing of Business Tax Return Information to Improve the Accuracy of Important Measures of Our Economy

Under current law, the IRS is authorized to provide limited federal tax information to the Bureau of Economic Analysis ("BEA") for statistical use and is not authorized to provide such information to the Bureau of Labor Statistics ("BLS"). The proposal would expand BEA and BLS access to such information. A similar proposal was in the Obama Administration's FY 2013 budget. Negligible revenue effect.

Eliminate Certain Treasury Inspector General for Tax Administration ("TIGTA") Reviews

Current law mandates TIGTA to conduct reviews of certain administrative and civil actions, as well as IRS compliance with certain requirements. The proposal would eliminate certain reporting requirements and change other annual reporting requirements into biennial reporting requirements. The proposal was requested by TIGTA and would allow it to focus resources on high-risk audits. A similar proposal was in the Obama Administration's FY 2013 budget. Negligible revenue effect.

Modify Indexing to Prevent Deflationary Adjustments

Many parameters of the tax system may be adjusted annually for the effects of inflation; these adjustments are typically based on changes of the Consumer Price Index. The proposal would modify inflation adjustment provisions so as to prevent tax parameters from declining from the previous year's levels if the underlying price index falls. Future inflation-related increases would be based on the highest previous level of the price index relevant for adjusting the particular tax parameter. A similar proposal was in the Obama Administration's FY 2013 budget. Negligible revenue effect.

Replace the Consumer Price Index ("CPI") with the Chained CPI for Purposes of Indexing Tax Provisions for Inflation

Under current law, many provisions of the tax code are adjusted for inflation. These provisions include the dollar value of the personal exemption and the standard deduction, as well as income thresholds for individual income tax brackets. Most of these adjustments are based on annual changes in the level of the CPI for all Urban Consumers ("CPI-U"). The Administration believes that the CPI-U overstates the effects of inflation because it does not fully reflect changes in consumption patters in response to price changes. The chained CPI-U (C-CPI-U) more fully reflects changes in the cost of living. The Administration proposes to use the C-CPI-U to index those tax provisions currently indexed by the CPI-U beginning in 2015. Raises $100 billion over 10 year

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