**Hani Sarji**
hani.sarji@law.nyls.edu
Now blogging at *Estate of Confusion*: http://blogs.forbes.com/hanisarji/

## Wealth Transfer Tax Reform In Obama's 2012 Budget Proposal

The material relating to President Obama's 2012 budget proposal is voluminous. This handout focuses on proposed changes to wealth transfer taxes in Obama's 2012 budget proposal. It excerpts relevant pages from two sources:

| | |
|---|---|
| **Federal Receipts** | http://www.whitehouse.gov/sites/default/files/omb/budget/fy2012/assets/receipts.pdf |
| **The Treasury Department's 2012 Green Book: General Explanations of the Administration's Fiscal Year 2012 Revenue Proposals** | http://www.treasury.gov/resource-center/tax-policy/Documents/Final%20Greenbook%20Feb%202012.pdf |

# FEDERAL RECEIPTS

# 15. GOVERNMENTAL RECEIPTS

During his first two years in office, President Obama signed several major tax bills designed to jumpstart the economy and provide tax relief. These actions began within a month of taking office, when the President signed the American Recovery and Reinvestment Act of 2009 (ARRA). The tax provisions of ARRA provided immediate tax relief to small businesses and to 95 percent of working American families. It is estimated that as of the end of the third quarter of 2010, tax reductions (including refundable tax credits) provided in ARRA total $243 billion.[1]

Most recently, in the final days of the 111th Congress, the President negotiated a key compromise to prevent tax increases on middle-income families. The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 includes a temporary extension of the 2001 and 2003 tax cuts that would have expired at the end of 2010, as well as relief from scheduled increases in the Alternative Minimum Tax (AMT), an extension of key temporary provisions of ARRA that provided tax relief to working American families, and a temporary reduction in payroll taxes paid by workers. In 2010, President Obama worked with the Congress to enact additional recovery measures that provided targeted tax relief, including the Hiring Incentives to Restore Employment (HIRE) Act and the Small Business Jobs Act of 2010. In addition, the President's efforts to expand health care coverage and reduce the cost of health care culminated with enactment of the Patient Protection and Affordable Care Act on March 23, 2010, as amended by the Health Care and Education Reconciliation Act of 2010 one week later (collectively referred to as the Affordable Care Act). In 2010, President Obama also signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act, which was the most sweeping overhaul of U.S. financial regulations since the 1930s.

The Budget proposes to restore balance to the tax code by providing permanent tax relief to middle-income families, and asking certain businesses and high-income families to pay more. It does this by permanently extending the 2001 and 2003 tax cuts for middle-income families, permanently extending key tax relief provided to middle-income families in ARRA, returning top ordinary income tax rates to what they were during most of the 1990s for families making more than $250,000, and eliminating subsidies and loopholes that benefit only narrow and often well-funded interest groups, such as oil companies. Further, the Budget will impose a fee on the largest financial institutions to provide a deterrent against excessive leverage. The Budget will also reform the international tax laws by reducing incentives for U.S.-based multinational corporations to invest abroad rather than in the United States.

[1] As reported in *The Economic Impact of the American Recovery and Reinvestment Act of 2009, Fifth Quarterly Report, November 18, 2010*, Executive Office of the President, Council of Economic Advisers.

**Table 15–1. RECEIPTS BY SOURCE—SUMMARY**

(In billions of dollars)

| | 2010 Actual | Estimate | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
| Individual income taxes | 898.5 | 956.0 | 1,140.5 | 1,344.1 | 1,508.4 | 1,648.0 | 1,786.0 | 1,922.6 | 2,055.6 | 2,187.2 | 2,314.5 | 2,439.5 |
| Corporation income taxes | 191.4 | 198.4 | 329.3 | 405.4 | 439.6 | 455.1 | 466.7 | 478.5 | 479.2 | 482.4 | 495.4 | 512.3 |
| Social insurance and retirement receipts | 864.8 | 806.8 | 925.1 | 1,016.5 | 1,094.6 | 1,162.9 | 1,234.1 | 1,292.2 | 1,353.1 | 1,409.5 | 1,463.4 | 1,537.2 |
| (On-budget) | (233.1) | (247.4) | (266.4) | (286.5) | (323.1) | (348.0) | (364.2) | (377.7) | (389.6) | (395.6) | (407.7) | (428.6) |
| (Off-budget) | (631.7) | (559.4) | (658.7) | (730.0) | (771.5) | (814.9) | (869.9) | (914.5) | (963.5) | (1,013.9) | (1,055.7) | (1,108.6) |
| Excise taxes | 66.9 | 74.1 | 103.1 | 121.5 | 137.9 | 145.1 | 148.7 | 155.2 | 163.7 | 175.9 | 181.8 | 189.4 |
| Estate and gift taxes | 18.9 | 12.2 | 13.6 | 14.6 | 25.0 | 27.6 | 30.0 | 32.4 | 34.9 | 37.4 | 40.1 | 43.1 |
| Customs duties | 25.3 | 27.7 | 29.8 | 33.0 | 35.7 | 37.8 | 39.4 | 41.4 | 44.0 | 46.5 | 49.1 | 51.6 |
| Miscellaneous receipts | 96.8 | 98.4 | 86.1 | 68.2 | 91.4 | 106.6 | 114.2 | 119.8 | 126.6 | 134.0 | 142.1 | 149.7 |
| **Total, receipts** | **2,162.7** | **2,173.7** | **2,627.4** | **3,003.3** | **3,332.6** | **3,583.0** | **3,819.1** | **4,042.2** | **4,257.0** | **4,473.0** | **4,686.5** | **4,922.8** |
| On-budget | 1,531.0 | 1,614.3 | 1,968.7 | 2,273.3 | 2,561.1 | 2,768.1 | 2,949.2 | 3,127.6 | 3,293.5 | 3,459.1 | 3,630.7 | 3,814.1 |
| Off-budget | 631.7 | 559.4 | 658.7 | 730.0 | 771.5 | 814.9 | 869.9 | 914.5 | 963.5 | 1,013.9 | 1,055.7 | 1,108.6 |
| Total receipts as a percentage of GDP | 14.9 | 14.4 | 16.6 | 17.9 | 18.7 | 19.1 | 19.3 | 19.5 | 19.6 | 19.8 | 19.9 | 20.0 |

## Table 15–2. ADJUSTMENTS TO THE BUDGET ENFORCEMENT ACT (BEA) BASELINE ESTIMATES OF GOVERNMENTAL RECEIPTS

(In billions of dollars)

| | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2012–16 | 2012–21 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **BEA baseline receipts** ...................................... | **2,175.5** | **2,644.4** | **3,137.9** | **3,549.5** | **3,753.1** | **3,968.4** | **4,255.7** | **4,496.9** | **4,750.5** | **4,975.8** | **5,240.9** | **17,053.3** | **40,773.1** |
| **Adjustments to BEA baseline:** | | | | | | | | | | | | | |
| Continue the 2001 and 2003 tax cuts for middle-income taxpayers: | | | | | | | | | | | | | |
| Dividends tax rate structure .................. | ......... | ......... | –4.2 | –9.0 | –10.5 | –11.8 | –12.6 | –12.9 | –13.1 | –13.3 | –13.6 | –35.5 | –101.0 |
| Capital gains tax rate structure .............. | ......... | –0.8 | –1.9 | –2.8 | –3.8 | –5.2 | –6.1 | –6.4 | –6.6 | –6.8 | –7.0 | –14.5 | –47.4 |
| Expensing for small businesses ............ | ......... | ......... | –5.6 | –8.1 | –6.4 | –5.2 | –4.4 | –3.8 | –3.6 | –3.5 | –3.6 | –25.4 | –44.3 |
| Marginal individual income tax rate reductions ........................................ | ......... | ......... | –44.6 | –63.4 | –64.2 | –64.7 | –65.7 | –66.3 | –66.9 | –67.2 | –67.4 | –237.0 | –570.5 |
| Child tax credit [1] ........................................ | ......... | ......... | –5.1 | –20.6 | –21.0 | –21.3 | –21.6 | –21.8 | –22.1 | –22.3 | –22.4 | –68.1 | –178.1 |
| Provisions for married taxpayers [1] ............ | ......... | ......... | –5.3 | –7.5 | –7.4 | –7.2 | –7.0 | –6.8 | –6.6 | –6.4 | –6.4 | –27.4 | –60.6 |
| Education incentives ............................ | ......... | –* | –0.9 | –1.8 | –1.9 | –2.0 | –2.1 | –2.1 | –2.2 | –2.3 | –2.4 | –6.6 | –17.8 |
| Other incentives for families and children ............................................ | ......... | * | –0.1 | –0.6 | –0.6 | –0.6 | –0.6 | –0.6 | –0.5 | –0.5 | –0.5 | –2.0 | –4.7 |
| Total, continue the 2001 and 2003 tax cuts for middle-income taxpayers ................................ | ......... | –0.8 | –67.8 | –114.0 | –115.9 | –118.1 | –120.0 | –120.7 | –121.5 | –122.4 | –123.2 | –416.5 | –1,024.4 |
| Extend estate, gift, and generation-skipping transfer taxes at 2009 parameters ............ | –1.3 | –1.9 | –4.8 | –24.0 | –26.4 | –29.2 | –31.7 | –34.5 | –36.9 | –39.2 | –41.6 | –86.3 | –270.2 |
| Index to inflation the 2011 parameters of the AMT as enacted in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 [2] .................. | ......... | –33.3 | –106.4 | –106.5 | –123.8 | –142.4 | –162.3 | –183.1 | –206.2 | –230.5 | –255.9 | –512.3 | –1,550.2 |
| **Total, adjustments to BEA baseline** ... | **–1.3** | **–35.9** | **–179.1** | **–244.5** | **–266.1** | **–289.6** | **–313.9** | **–338.3** | **–364.6** | **–392.0** | **–420.7** | **–1,015.2** | **–2,844.8** |
| **Adjusted baseline receipts** ............................ | **2,174.3** | **2,608.5** | **2,958.9** | **3,305.0** | **3,487.0** | **3,678.7** | **3,941.8** | **4,158.5** | **4,386.0** | **4,583.8** | **4,820.1** | **16,038.1** | **37,928.3** |

* $50 million or less.

[1] This provision affects both receipts and outlays. Only the receipt effect is shown here. The outlay effects are listed below:

| | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2012–16 | 2012–21 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Child tax credit ............................................... | ......... | ......... | 1.2 | 23.8 | 23.8 | 23.8 | 23.9 | 23.9 | 24.0 | 24.1 | 24.3 | 72.6 | 192.8 |
| Provisions for married taxpayers .................. | ......... | ......... | 0.2 | 4.1 | 4.1 | 4.0 | 4.0 | 4.0 | 4.1 | 4.1 | 4.2 | 12.4 | 32.8 |
| **Total, outlay effects of adjustments to BEA baseline** .................................. | ......... | ......... | **1.4** | **27.9** | **27.9** | **27.8** | **27.9** | **27.9** | **28.1** | **28.2** | **28.5** | **84.9** | **225.6** |

[2] The Administration proposes to offset the first three years' cost of extending AMT relief with savings from the Administration's proposal to reduce the value of certain tax expenditures:

| | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2012–16 | 2012–21 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Index to inflation the 2011 parameters of the AMT as enacted in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 ........................................................... | ......... | –33.3 | –106.4 | –106.5 | –96.9 | 26.9 | ......... | ......... | ......... | ......... | ......... | –316.2 | –316.2 |
| Reduce the value of certain tax expenditures .. | ......... | 6.0 | 19.0 | 26.4 | 29.8 | 32.7 | 35.7 | 38.6 | 41.5 | 44.4 | 47.2 | 113.9 | 321.3 |

## ADJUSTMENTS TO THE BUDGET ENFORCEMENT ACT (BEA) BASELINE

An important step in addressing the nation's fiscal problems is to be upfront about them and to establish a baseline that measures where we are before new policies are enacted. This Budget does so by adjusting the BEA baseline to reflect the cost of extending certain major tax policies that are quite likely to be extended. The BEA baseline, which is commonly used in budgeting and is defined in statute, reflects, with some exceptions, the projected receipts level under current law.

But current law includes a number of scheduled changes that are unlikely to occur and that prevent it from serving as a realistic benchmark for judging the effect of new legislation. The Statutory Pay-As-You-Go (PAYGO) Act, enacted in February 2010, recognizes that the expiration of a number of tax provisions is unrealistic, and provides exceptions (current policy adjustments) to the general rule that the cost of legislation should be offset and not increase projected deficits. These current policy adjustments include permanent extension of most of the tax reductions enacted in 2001 and 2003 for middle-income taxpayers. They also include temporary extension of estate, gift, and generation-skipping transfer taxes at 2009 parameters, temporary relief from the AMT and, on the spending side of the budget, temporary relief from the reductions in the rates Medicare pays for physician services under the "Sustainable Growth Rate" (SGR) formula.

This Budget uses an adjusted baseline that permanently continues the 2001 and 2003 tax cuts for middle-income taxpayers, consistent with the PAYGO statute. The Administration's adjusted baseline also permanently continues estate, gift, and generation-skipping transfer taxes at 2009 parameters and reflects permanent extension of relief from the AMT. Congress has repeatedly taken action to extend AMT relief, sometimes after it has expired; however, the Administration proposes to offset the first three years' cost of extending AMT relief with savings from the Administration's proposal to reduce the value of certain tax expenditures (see the discussion of this proposal later in this Chapter).

***Continue the 2001 and 2003 tax cuts for middle-income taxpayers.***—Most of the tax reductions for middle-income taxpayers enacted in 2001 and 2003 were recently extended for two years and are now scheduled to expire on December 31, 2012. This includes reductions in marginal individual income tax rates; the repeal of limitations on itemized deductions and personal exemptions; provisions for married taxpayers; expansions in the child tax credit, earned income tax credit, adoption tax credit, and child and dependent care credit; certain tax incentives for education; increases in small business expensing; and preferential rates for capital gains and dividends. The Administration's adjusted baseline reflects a permanent extension of all of these expiring provisions for middle-income taxpayers (as amended by subsequent legislation).[6]

***Extend estate, gift, and generation-skipping transfer taxes at 2009 parameters.***—The Administration's adjusted baseline reflects permanent extension of estate, gift, and generation-skipping transfer taxes at parameters in effect for calendar year 2009, effective for decedents dying after December 31, 2012. Under those parameters, the estates and generation-skipping transfers of a decedent dying after December 31, 2012, are taxed at a maximum tax rate of 45 percent and provided a life-time exclusion of \$3.5 million. Gifts made after December 31, 2012, are taxed at a maximum rate of 45 percent and provided a life-time exclusion of \$1 million.

***Index to inflation the 2011 parameters of the AMT as enacted in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.***—The Administration's adjusted baseline reflects annual indexation of: (1) the AMT exemption amounts in effect for taxable year 2011 (\$48,450 for single taxpayers, \$74,450 for married taxpayers filing a joint return and surviving spouses, and \$37,225 for married taxpayers filing a separate return and for estates and trusts); (2) the income thresholds for the 28-percent AMT rate (\$87,500 for married taxpayers filing a separate return and \$175,000 for all other taxpayers); and (3) the income thresholds for the phaseout of the exemption amounts (\$112,500 for single taxpayers, \$150,000 for married taxpayers filing a joint return and surviving spouses, and \$75,000 for married taxpayers filing a separate return). The Administration's adjusted baseline also extends AMT relief for nonrefundable personal credits. The Administration proposes to offset the first three years' cost of extending AMT relief with savings from the Administration's proposal to reduce the value of certain tax expenditures (see the discussion of this proposal later in this Chapter).

[6] Consistent with treatment of the tax cuts in statutory PAYGO, the Budget adjusted baseline assumes continuation of the 2001 and 2003 tax cuts as amended through December 31, 2009, for middle-income taxpayers. Among other changes, this continues two amendments made to these tax cuts in ARRA. These two amendments expand child tax credit refundability and the earned income tax credit for married couples.

## PROPOSALS

The Administration proposes to restore balance to the tax code by providing permanent tax cuts to working families, returning to the pre-2001 ordinary income tax rates for families making more than a quarter of a million dollars a year, closing loopholes, and eliminating subsidies to special interests. Extensions of certain expiring provisions, and initiatives to promote trade and program integrity are also proposed. The Administration's proposals that affect governmental receipts are described below.

zational affiliation, and the nature and subject of an investigation, when contacting third parties in connection with a civil or criminal tax investigation.

***Require taxpayers who prepare their returns electronically but file their returns on paper to print their returns with a 2-D bar code.***—Taxpayers can prepare their returns electronically (by meeting with a tax return preparer or using tax preparation software) but may file their return on paper by printing it out and mailing it to the IRS. Electronically filed tax returns are processed more efficiently and more accurately than paper tax returns. However, when tax returns are filed on paper—even if that paper return was prepared electronically—the IRS must manually enter the information contained on the return into the IRS's systems. The Administration proposes to 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 one.

***Allow the IRS to collect information from the U.S. Bureau of Prisons to reduce fraudulent claims.***—Currently, the IRS is unable to cross reference tax returns received with a list of prison inmates, decreasing the IRS's ability to determine whether inmates are claiming tax benefits to which they are not entitled. The IRS has become aware that some inmates are claiming tax benefits to which they may not be entitled (for example, creating false Forms W-2 showing that the inmate earned income from a legitimate business and taxes were withheld on that income). In some cases, inmates may claim the earned income tax credit, which they are not entitled to claim for any income received at any penal institution. The Administration proposes to require all prisons located in the United States to submit a list of names and validated Social Security numbers of all inmates serving sentences of one year or more by December 1 of each year to the IRS in order to allow the IRS to verify tax returns filed by prisoners.

***Allow the IRS to absorb credit and debit card processing fees for certain tax payments.***—Taxpayers may make credit or debit card payments by phone through IRS-designated third party service providers, who charge taxpayers a convenience fee for processing the payment over and above the taxes due. Under current law, if the IRS were to accept credit or debit card payments directly from taxpayers, the IRS would be prohibited from absorbing credit and debit card processing fees. The Administration recognizes that it is inefficient for both the IRS and taxpayers to require credit and debit card payments to be made through a third party service provider, and that charging an additional convenience fee increases taxpayers' costs. The proposal would permit the IRS to accept credit and debit card payments directly from taxpayers and to absorb the credit and debit card processing fees, only in situations authorized by regulations. The proposal would be effective for payments made after the date of enactment.

***Expand penalties.***—The Administration proposes to expand penalties, as described below:

***Impose a penalty on failure to comply with electronic filing requirements.***—Certain corporations and tax-exempt organizations (including certain charitable trusts and private foundations) are required to file their returns electronically. Although there are additions to tax for the failure to file returns, there is no specific penalty in the Internal Revenue Code for a failure to comply with a requirement to file electronically. Electronic filing increases efficiency of tax administration because the provision of tax return information in an electronic form enables the IRS to focus audit activities where they can have the greatest impact. This also assists taxpayers where the need for audit is reduced. The Administration is proposing an assessable penalty for a failure to comply with a requirement of electronic (or other machine-readable) 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.

***Increase penalty imposed on paid preparers who fail to comply with EITC due diligence requirements.***—Current law imposes a $100 penalty on tax return preparers who fail to comply with the due diligence requirements imposed by regulations with respect to determining eligibility for, or the amount of, the EITC for each such failure. As many as a quarter of EITC claims contain errors, and approximately 68 percent of EITC claims are prepared by tax return preparers. Tax return preparers can have a substantial impact on reducing errors in EITC claims. The Administration proposes to increase the penalty from $100 to $500 to help ensure that preparers comply with the due diligence requirements.

***Modify estate and gift tax valuation discounts and make other reforms.***—The Administration proposes to close loopholes in estate and gift taxation, as described below:

***Make permanent the portability of unused exemption between spouses.***—Current law provides that any applicable exclusion amount for estate and gift tax purposes of a person who dies after December 31, 2010, and before January 1, 2013, that remains unused as of that person's death generally may be made available (by a timely election made by the executor of the deceased person) for use by the surviving spouse of such deceased person, as an addition to the surviving spouse's own applicable exclusion amount. If the surviving spouse is predeceased by more than one spouse, the surviving spouse's exemption may be increased only by the unused exemption of the last such predeceased spouse to survive. In no event, however, may the unused exemption of a predeceased spouse available to the surviving spouse exceed the surviving spouse's own exemption amount. A surviving spouse may use the predeceased spousal carryover amount in addition to such surviving spouse's own exclusion for taxable transfers made during life or at death. Notwithstanding the statute of limitations for assessing estate or gift tax with respect to a predeceased spouse, the return of a predeceased spouse may be examined (and adjusted) for purposes of determining the deceased spousal unused exclusion amount available for use by the surviving spouse. The Administration proposes to extend the applicability of this provision permanently, thus extending the portability of unused exemption between spouses to all decedents dying and gifts made after December 31, 2012.

***Require consistency in value for transfer and income tax purposes.***—Current law provides generally that the basis of property inherited from a decedent is the property's fair market value at the decedent's death, and of property received by gift is the donor's adjusted basis in the property, increased by the gift tax paid on the transfer. A special limitation based on fair market value at the time of the gift applies if the property subsequently is sold by the donee at a loss. Although generally the same standards apply to determine the value subject to estate or gift tax, there is no explicit consistency rule that would require the recipient of the property to use the value used for estate or gift tax purposes as the recipient's basis in that property when the basis is determined by reference to the fair market value on the date of death or gift. The Administration proposes to require that, for decedents dying and gifts made after enactment, the recipient's basis generally must equal (but in no event may exceed) the value of the property as determined for estate or gift tax purposes, and a reporting requirement would be imposed on the decedent's executor or the donee to provide the necessary information to both the recipient and the IRS. The proposal also would grant regulatory authority for the development of rules to govern situations in which this general rule would not be appropriate.

***Modify rules on valuation discounts.***—Current law provides that the fair market value for estate and gift tax purposes of certain interests transferred intrafamily is to be determined without taking into consideration certain "applicable restrictions" that would otherwise justify discounts for lack of marketability and control in the determination of that value. Judicial decisions and the enactment of new statutes in most states, in effect, have made these rules inapplicable in many situations that were intended to be subject to those rules. In addition, additional arrangements have been identified which purport to reduce the value of the taxable transfer for transfer tax purposes, without reducing the economic value to the recipient of the transferred interest. The Administration proposes to create an additional category of "disregarded restrictions" that also would be ignored in valuing certain transferred interests. Those interests would be valued instead by assuming the applicability of certain assumptions to be specified in regulations. Disregarded restrictions would include limitations on a holder's right to liquidate that holder's interest that are more restrictive than a standard to be identified in regulations, and any limitation on a transferee's ability to be admitted as a full partner or holder of an equity interest in the entity. The proposal would include additional rules to support the implementation of the proposal, and would include a grant of appropriate regulatory authority.

***Require a minimum term for grantor retained annuity trusts (GRATs).***—Current law provides that the value of the remainder interest in a GRAT for gift tax purposes is determined by deducting the present value of the annuity to be paid during the GRAT term from the fair market value of the property contributed to the GRAT. If the grantor of the GRAT dies during that term, the portion of the trust assets needed to produce the annuity is included in the grantor's gross estate for estate tax purposes. In practice, grantors commonly use brief GRAT terms (often of less than two years) and significant annuities to minimize both the risk of estate tax inclusion and the value of the remainder for gift tax purposes. The Administration proposes to require that, for all trusts created after the date of enactment, the GRAT must have a minimum term of ten years, the value of the remainder at the creation of the trust must be greater than zero, and the annuity must not decrease during the GRAT term.

***Limit Duration of generation skipping transfer (GST) tax exemption.***—Current law provides that each person has a lifetime GST tax exemption ($5 million in 2010) that may be allocated to the person's transfers to or for the benefit of transferees who are two or more generations younger than the transferor ("skip persons"). The allocation of a person's GST exemption to such a transfer made in trust exempts from the GST tax not only the amount of the transfer (up to the amount of exemption allocated), but also all future appreciation and income from that amount during the existence of the trust. At the time of the enactment of the GST tax provisions, the law of almost all states included a Rule against Perpetuities (RAP) that required the termination of every trust after a certain period of time. Because many states now have either repealed or limited the application of their RAP laws, trusts subject to the laws of those states may continue in perpetuity. As a result of this change in State laws, the transfer tax shield provided by the GST exemption effectively has been expanded from trusts funded with $1 million and a maximum duration limited by the RAP, to trusts funded with $5 million and continuing (and growing) in perpetuity. The Administration proposes to limit the duration of the benefit of the GST tax exemption by imposing a bright-line test, more clearly administrable than the common law RAP, that, in effect, would terminate the GST tax exclusion on the 90th anniversary of the creation of the trust. An exception would be made for trusts that are distributed to another trust for the sole benefit of one individual if the distributee trust will be includable in the individual's gross estate for federal estate tax purposes to the extent it is not distributed to that individual during his or her life. This proposal would apply to trusts crated after enactment, and to the portion of a pre-existing trust attributable to additions (actual or constructive) to such a trust made after that date.

### Upper-Income Tax Provision

***Reduce the value of certain tax expenditures.***—The Administration proposes to limit the tax rate at which high-income taxpayers can take itemized deductions to a maximum of 28 percent, affecting only married taxpayers filing a joint return with income over \$250,000 (at 2009 levels) and single taxpayers with income over \$200,000. The proposed limitation would be effective for taxable years beginning after December 31, 2011. As indicated in the discussion of adjustments to the BEA baseline earlier in this Chapter, the Administration proposes to offset the first three years' cost of extending AMT relief with savings from this proposal.

### User Fees

***Reform inland waterways funding.***—The Administration will work with the Congress to reform the laws governing the Inland Waterways Trust Fund, including increasing the revenue paid by commercial navigation users sufficiently to meet their share of the costs of activities financed from this trust fund. In 1986, the Congress provided that commercial traffic on the inland waterways would be responsible for 50 percent of the capital costs of the locks and dams and of the other features that make barge transportation possible on the inland waterways. The current excise tax of 20 cents per gallon on diesel fuel used in inland waterways commerce does not produce the revenue needed to cover the required 50 percent of these costs.

***Increase fees for Migratory Bird Hunting and Conservation Stamps.***—Federal Migratory Bird Hunting and Conservation Stamps, commonly known as "Duck Stamps," were originally created in 1934 as the Federal licenses required for hunting migratory waterfowl. Today, ninety-eight percent of the receipts generated from the sale of these stamps (\$15 per stamp per year) are used to acquire important migratory bird breeding areas, migration resting places, and wintering areas. The land and water interest located and acquired with the Duck Stamp funds establish or add to existing migratory bird refuges and waterfowl production areas. The price of the Duck Stamp has not increased since 1991; however, the cost of land and water has increased significantly over the past 19 years. The Administration proposes to increase these fees to \$25 per stamp per year, effective beginning in 2012.

### Trade Initiatives

***Promote trade.***—The Obama Administration is committed to opening markets for American producers. As a part of this effort, the Administration is working with Members of Congress and stakeholders to address outstanding issues and move forward on pending trade agreements with Panama, Colombia, and South Korea. The Administration also looks forward to working with Congress in an effort to reform U.S. preference programs. Additionally, in 2009 the President announced his intention to establish Reconstruction Opportunity Zones (ROZs) in Afghanistan and the border regions of Pakistan as part of the Administration's broader counterterrorism strategy. The Administration will work closely with Congress and private sector stakeholders to implement these important trade initiatives.

### Surface Transportation Reauthorization

***Reauthorize surface transportation.***—The Budget display assumes sufficient revenues to support the Administration's surface transportation reauthorization proposal, which would provide \$554 billion of funding for selected transportation programs (highways, transit, highway safety, passenger rail, and a National Infrastructure Bank) over the next six years, 2012 through 2017, as well as increases in those programs in the outyears (note that the National Infrastructure Bank is not assumed to continue in the outyears; the amount requested in the first six years will be sufficient to cover the Bank's grant and loan activity over a ten-year period). The proposal would also expand the current Highway Trust Fund (HTF) to a Transportation Trust Fund, with accounts for the newly-incorporated activities, passenger rail and National Infrastructure Bank. Specifically, additional receipts of \$435 billion would be sufficient to liquidate all outlays from the programs over a ten-year window. This display is intended to illustrate one notional path associated with a "paid for" bill (i.e., where receipts are sufficient to finance planned outlays), not to endorse or imply any specific revenue proposal. Under current law, the HTF faces a structural deficit: revenues are insufficient to cover existing spending, let alone program increases. The current framework for financing and allocating surface transportation investments is not financially sustainable, nor does it adequately or effectively allocate resources to meet our critical national needs. The Budget reflects the Administration's broader commitment to working with Congress to ensure that funding increases for surface transportation do not increase the deficit, and, consistent with the recommendation of the Fiscal Commission, make the Transportation Trust Fund fully solvent.

### Other Initiatives

***Allow offset of Federal income tax refunds to collect delinquent State income taxes for out-of-state-residents.***—Under current law, federal tax refunds may be offset to collect delinquent State income tax obligations

**Table 15–3. EFFECT OF PROPOSALS—Continued**

(In millions of dollars)

| | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2012–16 | 2012–21 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Make repeated willful failure to file a tax return a felony | .......... | .......... | .......... | .......... | 1 | 1 | 1 | 1 | 2 | 2 | 2 | 2 | 10 |
| Facilitate tax compliance with local jurisdictions | .......... | .......... | .......... | .......... | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 7 |
| Extend statute of limitations where State adjustment affects Federal tax liability | .......... | .......... | .......... | .......... | 2 | 4 | 4 | 4 | 4 | 4 | 5 | 6 | 27 |
| Improve investigative disclosure statute | .......... | .......... | .......... | .......... | 1 | 1 | 1 | 1 | 2 | 2 | 2 | 2 | 10 |
| Require taxpayers who prepare their returns electronically but file their returns on paper to print their returns with a 2-D bar code | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... |
| Allow the IRS to collect information from the U.S. Bureau of Prisons to reduce fraudulent claims | .......... | 10 | 15 | 16 | 16 | 17 | 18 | 18 | 18 | 19 | 19 | 74 | 166 |
| Allow the IRS to absorb credit and debit card processing fees for certain tax payments | .......... | 1 | 1 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 8 | 18 |
| Expand penalties: | | | | | | | | | | | | | |
| Impose a penalty on failure to comply with electronic filing requirements | .......... | .......... | .......... | .......... | .......... | 1 | 1 | 1 | 2 | 2 | 2 | 1 | 9 |
| Increase penalty imposed on paid preparers who fail to comply with EITC due diligence requirements | .......... | 13 | 27 | 31 | 32 | 34 | 35 | 35 | 36 | 37 | 38 | 137 | 318 |
| Modify estate and gift tax valuation discounts and make other reforms: | | | | | | | | | | | | | |
| Make permanent the portability of unused exemption between spouses | .......... | .......... | .......... | –107 | –217 | –321 | –421 | –516 | –609 | –699 | –791 | –645 | –3,681 |
| Require consistency in value for transfer and income tax purposes | .......... | 127 | 171 | 182 | 192 | 204 | 216 | 229 | 243 | 258 | 273 | 876 | 2,095 |
| Modify rules on valuation discounts | .......... | 806 | 860 | 1,558 | 1,687 | 1,823 | 1,966 | 2,116 | 2,277 | 2,444 | 2,629 | 6,734 | 18,166 |
| Require a minimum term for GRATs | .......... | 15 | 46 | 93 | 160 | 231 | 308 | 389 | 477 | 570 | 670 | 545 | 2,959 |
| Limit duration of GST tax exemption | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... |
| Subtotal, reduce the tax gap and make reforms | 21 | 563 | 821 | –51,234 | 6,350 | 51,278 | 2,176 | 2,375 | –3,029 | 8,473 | 3,125 | 7,778 | 20,898 |
| Total, other revenue changes and loophole closers | 397 | 15,676 | 26,650 | –7,493 | 57,574 | 100,076 | 53,486 | 46,028 | 30,502 | 42,563 | 38,586 | 192,483 | 403,648 |
| **Upper-income tax provision:** | | | | | | | | | | | | | |
| Reduce the value of certain tax expenditures [4] | .......... | 6,008 | 18,996 | 26,418 | 29,766 | 32,696 | 35,699 | 38,644 | 41,496 | 44,388 | 47,180 | 113,884 | 321,291 |
| **User fees:** | | | | | | | | | | | | | |
| Reform inland waterways funding [2] | .......... | .......... | 196 | 163 | 135 | 72 | 72 | 71 | 69 | 70 | 69 | 566 | 917 |
| Increase fees for Migratory Bird Hunting and Conservation Stamps | .......... | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 14 | 70 | 140 |
| Total, user fees | .......... | 14 | 210 | 177 | 149 | 86 | 86 | 85 | 83 | 84 | 83 | 636 | 1,057 |
| **Trade Initiatives:** | | | | | | | | | | | | | |
| Promote trade [2] | .......... | –167 | –371 | –514 | –636 | –755 | –837 | –910 | –982 | –1,053 | –1,127 | –2,443 | –7,352 |
| **Surface transportation reauthorization:** | | | | | | | | | | | | | |
| Reauthorize surface transportation [2] | .......... | 20,000 | 28,000 | 29,000 | 31,000 | 32,000 | 34,000 | 36,000 | 38,000 | 39,000 | 41,000 | 140,000 | 328,000 |
| **Other initiatives:** | | | | | | | | | | | | | |
| Allow offset of Federal income tax refunds to collect delinquent State income taxes for out-of-state residents | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... |
| Authorize the limited sharing of business tax return information to improve the accuracy of important measures of our economy | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... |
| Eliminate certain reviews conducted by the U.S. TIGTA | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... |
| Modify indexing to prevent deflationary adjustments | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... |
| Total, other initiatives | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... | .......... |
| **Total, effect of proposals** | –728 | 17,370 | 40,616 | 15,817 | 81,449 | 123,206 | 79,784 | 76,189 | 62,615 | 76,104 | 73,817 | 278,458 | 646,967 |

**Table 15–5. RECEIPTS BY SOURCE—Continued**
(In millions of dollars)

| Source | 2010 | Estimate | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Actual | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
| Total, Trust funds | 48,653 | 53,012 | 81,458 | 94,360 | 98,393 | 101,837 | 104,861 | 108,510 | 112,150 | 113,355 | 115,938 | 118,848 |
| **Total, Excise taxes** | 66,909 | 74,079 | 103,069 | 121,485 | 137,856 | 145,122 | 148,701 | 155,154 | 163,683 | 175,918 | 181,819 | 189,421 |
| **Estate and gift taxes:** | | | | | | | | | | | | |
| Federal funds | 18,885 | 12,227 | 12,654 | 13,535 | 23,232 | 25,827 | 28,068 | 30,363 | 32,640 | 35,054 | 37,575 | 40,347 |
| Legislative proposal, subject to PAYGO | ........ | ........ | 946 | 1,072 | 1,725 | 1,822 | 1,937 | 2,069 | 2,218 | 2,388 | 2,573 | 2,781 |
| **Total, Estate and gift taxes** | 18,885 | 12,227 | 13,600 | 14,607 | 24,957 | 27,649 | 30,005 | 32,432 | 34,858 | 37,442 | 40,148 | 43,128 |
| **Customs duties and fees:** | | | | | | | | | | | | |
| Federal funds: | | | | | | | | | | | | |
| Federal funds | 24,010 | 27,004 | 29,572 | 32,158 | 34,573 | 36,660 | 38,428 | 40,447 | 42,938 | 45,480 | 48,004 | 50,448 |
| Legislative proposal, subject to PAYGO | ........ | –778 | –1,407 | –860 | –685 | –848 | –1,007 | –1,116 | –1,214 | –1,312 | –1,406 | –1,503 |
| Total, Federal funds | 24,010 | 26,226 | 28,165 | 31,298 | 33,888 | 35,812 | 37,421 | 39,331 | 41,724 | 44,168 | 46,598 | 48,945 |
| Trust funds: | | | | | | | | | | | | |
| Trust funds | 1,288 | 1,465 | 1,589 | 1,718 | 1,840 | 1,947 | 2,016 | 2,119 | 2,247 | 2,374 | 2,499 | 2,622 |
| **Total, Customs duties and fees** | 25,298 | 27,691 | 29,754 | 33,016 | 35,728 | 37,759 | 39,437 | 41,450 | 43,971 | 46,542 | 49,097 | 51,567 |
| **Miscellaneous receipts:** | | | | | | | | | | | | |
| Federal funds: | | | | | | | | | | | | |
| Miscellaneous taxes | 414 | 423 | 425 | 428 | 438 | 445 | 453 | 456 | 459 | 462 | 466 | 469 |
| Deposit of earnings, Federal Reserve System | 75,845 | 79,511 | 65,803 | 47,431 | 38,211 | 37,388 | 41,023 | 44,516 | 47,353 | 49,460 | 51,512 | 53,007 |
| Transfers from the Federal Reserve | 18 | 175 | 391 | 432 | 450 | 456 | 462 | 468 | 476 | 483 | 491 | 499 |
| Fees for permits and regulatory and judicial services | 11,861 | 12,016 | 12,865 | 13,266 | 29,218 | 35,096 | 36,645 | 35,634 | 37,096 | 40,207 | 43,889 | 47,531 |
| Legislative proposal, subject to PAYGO | ........ | ........ | 14 | 214 | 214 | 214 | 214 | 214 | 214 | 214 | 214 | 214 |
| Fines, penalties, and forfeitures | 7,328 | 5,610 | 5,880 | 5,475 | 21,879 | 31,949 | 34,394 | 37,534 | 39,970 | 42,175 | 44,482 | 46,908 |
| Refunds and recoveries | –26 | –106 | –80 | –51 | –33 | –32 | –32 | –32 | –32 | –32 | –32 | –32 |
| Total, Federal funds | 95,440 | 97,629 | 85,298 | 67,195 | 90,377 | 105,516 | 113,159 | 118,790 | 125,536 | 132,969 | 141,022 | 148,596 |
| Trust funds: | | | | | | | | | | | | |
| United Mine Workers of America, combined benefit fund | 42 | 36 | 33 | 31 | 28 | 26 | 24 | 22 | 21 | 19 | 18 | 17 |
| Defense cooperation | 568 | 238 | 239 | 239 | 240 | 242 | 243 | 243 | 243 | 244 | 246 | 247 |
| Inland waterways (Legislative proposal, subject to PAYGO) | ........ | ........ | ........ | 196 | 196 | 168 | 140 | 140 | 140 | 140 | 140 | 140 |
| Fines, penalties, and forfeitures | 782 | 535 | 547 | 555 | 563 | 570 | 577 | 586 | 593 | 601 | 608 | 617 |
| Legislative proposal, subject to PAYGO | ........ | ........ | ........ | 20 | 40 | 41 | 41 | 42 | 44 | 46 | 48 | 50 |
| Total, Trust funds | 1,392 | 809 | 819 | 1,041 | 1,067 | 1,047 | 1,025 | 1,033 | 1,041 | 1,050 | 1,060 | 1,071 |
| **Total, Miscellaneous receipts** | 96,832 | 98,438 | 86,117 | 68,236 | 91,444 | 106,563 | 114,184 | 119,823 | 126,577 | 134,019 | 142,082 | 149,667 |
| **Total, budget receipts** | 2,162,724 | 2,173,700 | 2,627,449 | 3,003,345 | 3,332,588 | 3,583,043 | 3,819,103 | 4,042,168 | 4,256,995 | 4,473,000 | 4,686,455 | 4,922,758 |
| On-budget | (1,531,037) | (1,614,278) | (1,968,719) | (2,273,344) | (2,561,064) | (2,768,114) | (2,949,182) | (3,127,643) | (3,293,500) | (3,459,059) | (3,630,713) | (3,814,143) |
| Off-budget | (631,687) | (559,422) | (658,730) | (730,001) | (771,524) | (814,929) | (869,921) | (914,525) | (963,495) | (1,013,941) | (1,055,742) | (1,108,615) |

[1] Deposits by States cover the benefit part of the program. Federal unemployment receipts cover administrative costs at both the Federal and State levels. Railroad unemployment receipts cover both the benefits and administrative costs of the program for the railroads.

[2] Represents employer and employee contributions to the civil sevice retirement and disability fund for covered employees of Government-sponsored, privately owned enterprises and the District of Columbia municipal government.

# General Explanations of the Administration's Fiscal Year 2012 Revenue Proposals

Department of the Treasury
February 2011

This document is available in Adobe Acrobat format on the Internet at:
http://www.treas.gov/offices/tax-policy/library/greenbk12.pdf
The free Adobe Acrobat Reader is available at: http://get.adobe.com/reader

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[1] The Administration's policy proposals reflect changes from a tax baseline that modifies the Budget Enforcement Act baseline by permanently extending alternative minimum tax relief, freezing the estate tax at 2009 levels, and making permanent a number of the tax cuts enacted in 2001 and 2003. These baseline changes are described in the modified PAYGO baseline section.

# Modify Estate and Gift Tax Valuation Discounts and Make Other Reforms

## MAKE PERMANENT THE PORTABILITY OF UNUSED EXEMPTION BETWEEN SPOUSES

### Current Law

Each individual has a lifetime exclusion for purposes of estate and gift taxes. That exclusion is \$5 million in 2011 and will be indexed for inflation after 2011. However, after 2012, the amount of this exclusion is scheduled to revert to the amount that would have been in effect had the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) never been enacted (thus, \$1 million). For the first time, current law now provides that the surviving spouse of a person who dies after December 31, 2010, may be eligible to increase the surviving spouse's exclusion amount by the portion of the predeceased spouse's exclusion that remained unused at the predeceased spouse's death. In no event, however, may the surviving spouse's exclusion amount be increased by more than the amount of exclusion available to a person in that calendar year. This provision allowing the portability of the predeceased spouse's unused exemption applies through December 31, 2012. If a surviving spouse is predeceased by more than one spouse, the amount of unused exclusion that is available for use by such surviving spouse is limited to the unused exclusion of the last such deceased spouse to die. The surviving spouse may use his or her exclusion, augmented by such predeceased spouse's unused exclusion, for taxable transfers made during life or at death.

The surviving spouse may use the unused exclusion of such predeceased spouse only if the executor of that predeceased spouse makes an election on a timely filed estate tax return (including extensions) for the estate of that predeceased spouse on which such unused exemption amount is computed, regardless of whether the estate of that predeceased spouse otherwise is required to file an estate tax return. Notwithstanding the statute of limitations for assessing estate or gift tax with respect to that predeceased spouse, the return of that predeceased spouse may be examined and adjusted for purposes of determining the deceased spouse's unused exclusion amount available for use by the surviving spouse.

### Reasons for Change

Without this portability provision, spouses are often required to retitle assets into each spouse's separate name and create complex trusts in order to allow the first spouse to die to take full advantage of his or her exclusion. Depending upon the nature of the couple's assets, such a division may not be possible. Such a division also has significant consequences under property law and often is not consistent with the way in which the married couple would prefer to handle their financial affairs. Portability would obviate the need for such burdensome planning.

**Proposal**

This proposal would extend portability permanently, thus making the use of the last predeceased spouse's unused exemption available to all estates of decedents dying and gifts made after December 31, 2012.

## REQUIRE CONSISTENCY IN VALUE FOR TRANSFER AND INCOME TAX PURPOSES

### Current Law

Section 1014 provides that the basis of property acquired from a decedent generally is the fair market value of the property on the decedent's date of death. Similarly, property included in the decedent's gross estate for estate tax purposes generally must be valued at its fair market value on the date of death. Although the same valuation standard applies to both provisions, current law does not explicitly require that the recipient's basis in that property be the same as the value at which that property was reported for estate tax purposes.

Section 1015 provides that the donee's basis in property received by gift during the life of the donor generally is the donor's adjusted basis in the property, increased by gift tax paid on the transfer. If, however, the donor's basis exceeds the fair market value of the property on the date of the gift, the donee's basis is limited to that fair market value for purposes of determining any subsequent loss.

Section 1022, applicable to the estates of decedents dying during 2010 if a timely election to that effect is made, provides that the basis of property acquired from such a decedent is the lesser of the decedent's adjusted basis in that property or the fair market value of the property on the decedent's date of death.

Section 6034A imposes a consistency requirement – specifically, that the recipient of a distribution of income from a trust or estate must report on the recipient's own income tax return the exact information included on the Schedule K-1 of the trust's or estate's income tax return – but this provision applies only for income tax purposes, and the Schedule K-1 does not include basis information.

### Reasons for Change

Taxpayers should be required to take consistent positions in dealing with the Internal Revenue Service, whether or not principles of privity apply. If the logic underlying the determination of the new basis in property acquired on the death of the owner is that the new basis is the amount used to determine the decedent's estate tax liability, then the law should require that the same value be used by the recipient, unless that value is in excess of the accurate value. In the case of property transferred on death or by gift during life, often the executor of the estate or the donor, respectively, will be in the best position to ensure that the recipient receives the information that will be necessary to determine the recipient's basis in the transferred property.

### Proposal

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 lesser of the decedent's adjusted basis or the fair market value of the property on the decedent's death. This proposal would require that the basis of the property in the hands of the recipient be no greater than the value of that property as determined for estate or gift tax purposes (subject to subsequent adjustments).

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 information to both the recipient and the Internal Revenue Service.

A grant of regulatory authority would be included to provide details about the implementation and administration of these requirements, including rules for situations in which no estate tax return is required to be filed or gifts are excluded from gift tax under section 2503, for situations in which the surviving joint tenant or other recipient may have better information than the executor, and for the timing of the required reporting in the event of adjustments to the reported value subsequent to the filing of an estate or gift tax return.

The proposal would be effective as of the date of enactment.

## MODIFY RULES ON VALUATION DISCOUNTS

### Current Law

The fair market value of property transferred, whether on the death or during the life of the transferor, generally is subject to estate or gift tax at the time of the transfer. Sections 2701 through 2704 of the Internal Revenue Code were enacted to prevent the reduction of taxes through the use of "estate freezes" and other techniques designed to reduce the value of the transferor's taxable estate and discount the value of the taxable transfer to the beneficiaries of the transferor without reducing the economic benefit to the beneficiaries. Generally, section 2704(b) provides that certain "applicable restrictions" (that would normally justify discounts in the value of the interests transferred) are to be ignored in valuing interests in family-controlled entities if those interests are transferred (either by gift or on death) to or for the benefit of other family members. The application of these special rules results in an increase in the transfer tax value of those interests above the price that a hypothetical willing buyer would pay a willing seller, because section 2704(b) generally directs an appraiser to ignore the rights and restrictions that otherwise would support significant discounts for lack of marketability and control.

### Reasons for Change

Judicial decisions and the enactment of new statutes in most states, in effect, have made section 2704(b) inapplicable in many situations by recharacterizing restrictions such that they no longer fall within the definition of an "applicable restriction". In addition, the Internal Revenue Service has identified additional arrangements designed to circumvent the application of section 2704.

### Proposal

This proposal would create an additional category of restrictions ("disregarded restrictions") that would be ignored in valuing an interest in a family-controlled entity transferred to a member of the family if, after the transfer, the restriction will lapse or may be removed by the transferor and/or the transfer's family. Specifically, the transferred interest would be valued by substituting for the disregarded restrictions certain assumptions to be specified in regulations. Disregarded restrictions would include limitations on a holder's right to liquidate that holder's interest that are more restrictive than a standard to be identified in regulations. A disregarded restriction also would include any limitation on a transferee's ability to be admitted as a full partner or to hold an equity interest in the entity. For purposes of determining whether a restriction may be removed by member(s) of the family after the transfer, certain interests (to be identified in regulations) held by charities or others who are not family members of the transferor would be deemed to be held by the family. Regulatory authority would be granted, including the ability to create safe harbors to permit taxpayers to draft the governing documents of a family-controlled entity so as to avoid the application of section 2704 if certain standards are met. This proposal would make conforming clarifications with regard to the interaction of this proposal with the transfer tax marital and charitable deductions.

This proposal would apply to transfers after the date of enactment of property subject to restrictions created after October 8, 1990 (the effective date of section 2704).

## REQUIRE A MINIMUM TERM FOR GRANTOR RETAINED ANNUITY TRUSTS (GRATS)

### Current Law

Section 2702 provides that, if an interest in a trust is transferred to a family member, the value of any interest retained by the grantor is valued at zero for purposes of determining the transfer tax value of the gift to the family member(s). This rule does not apply if the retained interest is a "qualified interest." A fixed annuity, such as the annuity interest retained by the grantor of a 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.

Generally, a GRAT is an irrevocable trust funded with assets expected to appreciate in value, in which the grantor retains an annuity interest for a term of years that the grantor expects to survive. At the end of that term, the assets then remaining in the trust are transferred to (or held in further trust for) the beneficiaries, who generally are descendants of the grantor. If the grantor dies during the GRAT term, however, the trust assets (at least the portion needed to produce the retained annuity) are included in the grantor's gross estate for estate tax purposes. To this extent, although the beneficiaries will own the remaining trust assets, the estate tax benefit of creating the GRAT (specifically, the tax-free transfer of the appreciation during the GRAT term in excess of the annuity payments) is not realized.

### Reasons for Change

GRATs have proven to be a popular and efficient technique for transferring wealth while minimizing the gift tax cost of transfers, providing that the grantor survives the GRAT term and the trust assets do not depreciate in value. The greater the appreciation, the greater the transfer tax benefit achieved. Taxpayers have become adept at maximizing the benefit of this technique, often by minimizing the term of the GRAT (thus reducing the risk of the grantor's death during the term), in many cases to two years, and by retaining annuity interests significant enough to reduce the gift tax value of the remainder interest to zero or to a number small enough to generate only a minimal gift tax liability.

### Proposal

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 ten years.[9] The proposal would also include a requirement that the remainder interest have a value greater than zero and would prohibit any decrease in the annuity during the GRAT term. Although a minimum term would not prevent "zeroing-out" the gift tax value of the remainder interest, it would increase the risk of the grantor's death during the GRAT term and the resulting loss of any anticipated transfer tax benefit.

This proposal would apply to trusts created after the date of enactment.

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[9] Cf. section 673 as applicable to a so-called *Clifford* trust created before or on March 1, 1986, with a ten-year minimum term.

## LIMIT DURATION OF GENERATION-SKIPPING TRANSFER (GST) TAX EXEMPTION

### Current Law

Generation-skipping transfer 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. In such a trust, no estate tax would be incurred as beneficiaries died because their respective life interests would die with them and thus would cause no inclusion of the trust assets in the deceased beneficiary's gross estate. The GST tax is a flat tax on the value of the transfer at the highest estate tax bracket applicable in that year. Each person has a GST tax exemption (originally $1 million, $3.5 million in 2009, and $5 million in 2010 and 2011), that can be allocated to transfers made by that person, whether made directly to a grandchild or other "skip person" or in trust. The allocation of GST exemption to a transfer or to a trust excludes from the GST tax not only the amount of the transfer or trust assets equal to the amount of GST exemption allocated, but also all appreciation and income on that amount during the existence of the trust.

At the time of the enactment of the GST provisions, the law of most (generally, all but about three) states included the common law Rule against Perpetuities (RAP) or some statutory enactment or version of it. The RAP generally requires that every trust terminate no later than 21 years after the death of a person who was alive (a life in being) at the time of the creation of the trust.

### Reasons for Change

Many states have now either repealed or limited the application of their RAP statutes, with the effect that trusts created subject to the law of those jurisdictions may continue in perpetuity. (A trust may be sitused anywhere; a grantor is not limited to the jurisdiction of the grantor's domicile for this purpose.) As a result, the transfer tax shield provided by the GST exemption effectively has been expanded from trusts funded with $1 million and a maximum duration limited by the RAP, to trusts funded with $5 million and continuing (and growing) in perpetuity.

### Proposal

This proposal would provide that, on the 90$^{th}$ anniversary of the creation of a trust, the GST exclusion allocated to the trust would terminate. Specifically, this would be achieved by increasing the inclusion ratio of the trust (as defined in section 2642) to one, thereby rendering no part of the trust exempt from GST tax. Because contributions to a trust from a different grantor are deemed to be held in a separate trust under section 2654(b), each such separate trust would be subject to the same 90-year rule, measured from the date of the first contribution by the grantor of that separate trust. The special rule for pour-over trusts under section 2653(b)(2) would continue to apply to pour-over trusts and to trusts created under a decanting authority, and for purposes of this rule, such trusts will be deemed to have the same date of creation as the initial trust, with one exception, as follows. If, prior to the 90$^{th}$ anniversary of the trust, trust property is distributed to a trust for a beneficiary of the initial trust, and the distributee trust is as described in section 2642(c)(2), the inclusion ratio of the distributee trust will not be changed to one (with regard to the distribution from the initial trust) by reason of this rule. This exception is intended to permit an incapacitated beneficiary's distribution to continue to be held in trust without incurring GST tax on distributions to the beneficiary as long as that trust is to be used for the sole benefit of that beneficiary and any trust balance remaining on the beneficiary's death will be included in the beneficiary's gross estate for Federal estate tax purposes. The other rules of section 2653 also would continue to apply, and would be relevant in determining when a taxable distribution or taxable termination occurs after the $90^{th}$ anniversary of the trust. An express grant of regulatory authority would be included to facilitate the implementation and administration of this provision.

This proposal would apply to trusts created after enactment, and to the portion of a pre-existing trust attributable to additions to such a trust made after that date (subject to rules substantially similar to the grandfather rules currently in effect for additions to trusts created prior to the effective date of the GST tax).

# MODIFIED PAY-AS-YOU-GO (PAYGO) BASELINE

An important step in addressing the nation's fiscal problems is to be upfront about them, and to establish a revenue baseline that accurately measures where we are before new policies are enacted. This Budget does so by adjusting the Budget Enforcement Act (BEA) baseline to reflect the cost of the current policy path, to the extent current policy can be determined. The BEA baseline, which is commonly used in budgeting, reflects the projected receipts level under current law, with very limited exceptions. But it is widely believed that a number of future tax law changes scheduled under current law are unlikely to occur. These scheduled, but unlikely to occur, changes include the expiration of many of the tax cuts enacted by the Economic Growth and Tax Relief Reconciliation Act of 2001 ( EGTRRA) and the Job Growth and Tax Relief Reconciliation Act of 2003 ( JGTRRA), and extended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (TRUIRJCA). Therefore current law does not provide a reasonable benchmark for judging the effect of new legislation.

Congress recognized that the expiration of a number of tax provisions was unrealistic, and allowed certain adjustments to the cost of legislation in the Statutory Pay-As-You-Go (PAYGO) Act of 2010 (Public Law 111-139). The Statutory PAYGO Act requires that new legislation changing taxes, fees, or mandatory expenditures, taken together, must not increase projected deficits. It establishes four cases for which an adjustment to the cost of legislation may be made, effectively exempting Congress from requiring tax or spending offsets to pay for these provisions if they are enacted by December 31, 2011. The excepted tax provisions relate to the Estate and Gift Tax, the Alternative Minimum Tax (AMT) and most provisions of EGTRRA and JGTRRA.[11]

Many of the excepted tax provisions were adopted on a temporary basis (usually through tax year 2012) by TRUIRJCA.

As a result, the Administration views adoption of the PAYGO adjustments as the appropriate baseline for considering further tax policy changes after TRUIRJCA expires, with two modifications to the Estate and Gift and AMT provisions. Specifically, the Statutory PAYGO Act adjustments to cost estimates and modifications for the Administration's baseline include:

***Estate and Gift Tax*** – the Administration's baseline assumes that the Estate and Gift Tax provisions in effect for tax year 2009 are permanently extended, once Public Law 111-312 expires. This provides for an exemption of $3.5 million per estate (not indexed) and a tax rate of 45 percent, for decedents dying after December 31, 2012. Under current law, the Estate and Gift Tax provisions are set to revert to the levels provided under pre-2001 law (which include a lower exemption and higher rates than in effect in 2009). The Statutory PAYGO Act allows an adjustment for the extension of 2009 parameters only through December 31, 2011; however, since Congress recently enacted more generous estate tax provisions through 2012, there is

[11]Statutory PAYGO also provides for an adjustment for the cost of Medicare payments to physicians that are in excess of what payments would be under the sustainable growth rate formula. Congress has, however, recently chosen to pay for these Medicare expenditures. Similarly, the Administration's baseline does not except these Medicare payments, effectively assuming that continuation of payments in excess of the sustainable growth rate formula should be paid for.

considerable expectation that future legislation will provide more generous treatment than pre-2001 law.

***AMT*** – the Administration's baseline assumes that the 2011 AMT parameters are permanently indexed for inflation after 2011. The baseline also allows non-refundable credits to be claimed against the AMT. The Statutory PAYGO Act allows an adjustment for the cost of extending AMT relief through December 31, 2011 only; however, Congress has repeatedly extended AMT relief and it is reasonable to expect similar legislation in the future.

***Middle-class tax cuts*** – the Statutory PAYGO Act allows an adjustment for the permanent extension of the "middle-class tax cuts" in effect for tax year 2010, as provided under EGTRRA and JGTRRA and any amendments through December 31, 2009. Specifically, the PAYGO exceptions and the Administration's baseline include the cost of permanently extending:

- The 10-percent income tax bracket and the reduction of the 28 and 31-percent tax rates to 25 and 28 percent as provided under section 101(a) of EGTRRA.

- The reduction of the 36 percent tax rate to 33 percent as provided for under section 101(a) of EGTRRA, but only for taxpayers with adjusted gross income (AGI) of $200,000 or less for single filers or $250,000 or less for married filers (in 2009 dollars, indexed for inflation thereafter). The modified PAYGO baseline does not allow extension of the EGTRRA/JGTRRA tax rate cuts for upper-income families. Instead, these rate cuts would expire, and the top ordinary income tax rate would be 39.6 percent beginning in 2013.

- The child tax credit as provided under section 201 of EGTRRA and amended by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5, or ARRA); that is, a credit of $1,000 per child, allowed against regular tax and the AMT, and refundable up to an amount equal to 15 percent of earned income in excess of $3,000 (not indexed).

- Tax benefits for married couples as provided for under title III of EGTRRA and amended by ARRA; that is, the increase in the standard deduction for joint filers to equal twice that of single taxpayers, the expansion of the 15-percent tax bracket for joint filers to twice the width of that for single taxpayers, and the $5,000 increase in the starting point of the earned income tax credit (EITC) phase-out range for joint filers (indexed beginning in 2010). Title III of EGTRRA and the baseline also include several modifications to simplify and improve compliance with the EITC.

- The expanded adoption tax credit as provided for under section 202 of EGTRRA; that is, a maximum credit of $10,000 (indexed for inflation after 2002) for adoptions of children with special-needs (without regard to expenses) and expenses related to other adoptions, allowed against regular tax and the AMT.

- The dependent care tax credit as provided for under section 204 of EGTRRA; that is, the maximum credit is $1,050 for one qualifying individual and $2,100 for two qualifying individuals.

- The employer-provided child care tax credit as provided for under section 205 of EGTRRA.

- The education tax benefits as provided for under title IV of EGTRRA. These benefits include an exclusion of up to \$5,250 in employer provided education assistance; an increase in the phase-out range and elimination of the 60-month limit on the deductibility of student loan interest payments; and an exclusion from income of awards received under certain health professional programs.

- The reduction in tax rates on capital gains from 10 and 20 percent to 0 and 15 percent and the taxation of dividends at capital gains rather than ordinary rates, as provided for under sections 301 and 302 of JGTRRA, but only for taxpayers with AGI of \$200,000 or less for single filers or \$250,000 or less for married filers (in 2009 dollars, indexed for inflation thereafter).

- The elimination of the phase-out of personal exemptions and the elimination of the limitation on itemized deductions (Pease), as provided for under sections 102 and 103 of EGTRRA, but only for taxpayers with AGI of \$200,000 or less for single filers or \$250,000 or less for married filers (in 2009 dollars, indexed for inflation thereafter).

- The increased limits on expensing small business assets under section 179(b) of the Internal Revenue Code as provided for under section 202 of JGTRRA; that is, businesses would be able to expense up to \$125,000 of investment, phased out dollar for dollar after investment reaches \$500,000 (dollar levels indexed for inflation from 2006).

The Administration interprets sections 7(a)(4)(D) and 7(f)(1)(I)-(K), of the Statutory PAYGO Act as follows: (1) In applying the AGI thresholds of \$200,000 for single filers and \$250,000 for joint filers we assume that the threshold for married filing separately taxpayers is set equal to half that of married filing jointly taxpayers, the AGI threshold for head of household filers is set half-way between that of single and married filing jointly taxpayers at \$225,000, and the AGI threshold for qualifying widows and widowers is set equal to that for married filing jointly taxpayers; (2) All taxpayers face the same income tax rate schedule for their applicable filing status; that is, high-income taxpayers benefit from lower rates exempted under the Statutory PAYGO Act; (3) The amount of taxable income at which the marginal tax rate increases from 33 percent to 36 percent is equal to the applicable AGI threshold less the standard deduction for the taxpayer's filing status and one personal exemption (two in the case of married filing jointly taxpayers); and (4) The AGI thresholds are indexed for inflation after 2009.

For 2011 the Administration's baseline is current law (including extension of the EGTRRA/JGTRRA tax cuts for upper-income families) and for 2012 it is current law (including extension of the EGTRRA/ JGTRRA tax cuts for upper-income families) with AMT relief as described above.

| | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2012-2016 | 2012-2021 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | **Fiscal Years** (in millions of dollars) | | | | | | |
| Increase certainty with respect to worker classification | 0 | 12 | 230 | 1,237 | 956 | 819 | 904 | 994 | 1,088 | 1,186 | 1,284 | 3,254 | 8,710 |
| Repeal special estimated tax payment provision for certain insurance companies | | | | | | | *Negligible Revenue Effect* | | | | | | |
| Eliminate special rules modifying the amount of estimated tax payments by corporations | 0 | 0 | 0 | -53,610 | 4,320 | 49,290 | 0 | 0 | -5,630 | 5,630 | 0 | 0 | 0 |
| *subtotal, improve compliance by businesses* | *0* | *16* | *235* | *-52,367* | *5,282* | *50,115* | *911* | *1,001* | *-4,535* | *6,824* | *1,292* | *3,281* | *8,774* |
| *Strengthen tax administration:* | | | | | | | | | | | | | |
| Revise offer-in-compromise application rules | 0 | 2 | 2 | 2 | 2 | 2 | 3 | 3 | 3 | 3 | 3 | 10 | 25 |
| Expand IRS access to information in the National Directory of New Hires for tax administration purposes | | | | | | | *No Revenue Effect* | | | | | | |
| Make repeated willful failure to file a tax return a felony | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 1 | 2 | 2 | 2 | 2 | 10 |
| Facilitate tax compliance with local jurisdictions | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 7 |
| Extend of statute of limitations where State adjustment affects Federal tax liability | 0 | 0 | 0 | 0 | 2 | 4 | 4 | 4 | 4 | 4 | 5 | 6 | 27 |
| Improve investigative disclosure statute | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 1 | 2 | 2 | 2 | 2 | 10 |
| Require taxpayers who prepare their returns electronically but file their returns on paper to print their returns with a 2-D bar code | | | | | | | *No Revenue Effect* | | | | | | |
| Require prisons located in the U.S. to provide information to the IRS | 0 | 10 | 15 | 16 | 16 | 17 | 18 | 18 | 18 | 19 | 19 | 74 | 166 |
| Allow the IRS to absorb credit and debit card processing fees for certain tax payments | 0 | 1 | 1 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 8 | 18 |
| *subtotal, strengthen tax administration* | *0* | *13* | *18* | *20* | *25* | *28* | *30* | *30* | *32* | *33* | *34* | *104* | *263* |
| *Expand penalties:* | | | | | | | | | | | | | |
| Impose a penalty on failure to comply with electronic filing requirements | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 2 | 2 | 2 | 1 | 9 |
| Increase penalty imposed on paid preparers who fail to comply with EITC due diligence requirements | 0 | 13 | 27 | 31 | 32 | 34 | 35 | 35 | 36 | 37 | 38 | 137 | 318 |
| *subtotal, expand penalties* | *0* | *13* | *27* | *31* | *32* | *35* | *36* | *36* | *38* | *39* | *40* | *138* | *327* |
| **Subtotal, reduce the tax gap and make reforms** | **21** | **-385** | **-256** | **-52,960** | **4,528** | **49,341** | **107** | **157** | **-5,417** | **5,900** | **344** | **268** | **1,359** |
| **Modify estate and gift tax valuation discounts and make other reforms:** | | | | | | | | | | | | | |
| Make permanent the portability of unused exemption between spouses | 0 | 0 | 0 | -107 | -217 | -321 | -421 | -516 | -609 | -699 | -791 | -645 | -3,681 |
| Require consistency in value for transfer and income tax purposes | 0 | 127 | 171 | 182 | 192 | 204 | 216 | 229 | 243 | 258 | 273 | 876 | 2,095 |
| Modify rules on valuation discounts | 0 | 806 | 860 | 1,558 | 1,687 | 1,823 | 1,966 | 2,116 | 2,277 | 2,444 | 2,629 | 6,734 | 18,166 |
| Require a minimum term for grantor retained annuity trusts (GRATs) | 0 | 15 | 46 | 93 | 160 | 231 | 308 | 389 | 477 | 570 | 670 | 545 | 2,959 |
| Limit duration of generation-skipping transfer (GST) tax exemption | | | | | | | *Negligible Revenue Effect* | | | | | | |
| **Subtotal, estate and gift tax** | **0** | **948** | **1,077** | **1,726** | **1,822** | **1,937** | **2,069** | **2,218** | **2,388** | **2,573** | **2,781** | **7,510** | **19,539** |
| **Upper-income tax provision: Reduce the value of certain tax expenditures** | **0** | **6,008** | **18,996** | **26,418** | **29,766** | **32,696** | **35,699** | **38,644** | **41,496** | **44,388** | **47,180** | **113,884** | **321,291** |
| **User fees: Reform inland waterways funding** | **0** | **0** | **196** | **163** | **136** | **72** | **72** | **71** | **69** | **70** | **69** | **566** | **917** |
| **Other initiatives:** | | | | | | | | | | | | | |
| Allow offset of Federal income tax refunds to collect delinquent State income taxes for out-of-state residents | | | | | | | *No Revenue Effect* | | | | | | |
| Authorize the limited sharing of business tax return information to improve the accuracy of important measures of our economy | | | | | | | *No Revenue Effect* | | | | | | |
| Eliminate certain reviews conducted by the U.S. Treasury Inspector General for Tax Administration (TIGTA) | | | | | | | *No Revenue Effect* | | | | | | |
| Modify indexing to prevent deflationary adjustments | | | | | | | *No Revenue Effect* | | | | | | |
| **Subtotal, other initiatives** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | **0** |
| **Program integrity initiatives:** | | | | | | | | | | | | | |
| Increase levy authority for payments to Federal contractors with delinquent tax debt | 5 | 59 | 61 | 64 | 67 | 69 | 73 | 76 | 80 | 83 | 87 | 320 | 719 |
| Increase levy authority for payments to Medicare providers with delinquent tax debt | 17 | 64 | 68 | 71 | 74 | 76 | 76 | 78 | 80 | 80 | 81 | 353 | 748 |
| **Subtotal, program integrity initiatives** | **22** | **123** | **129** | **135** | **141** | **145** | **149** | **154** | **160** | **163** | **168** | **673** | **1,467** |
| **Total Effect of FY 2012 Budget Tax Proposals Relative to the Adjusted Baseline** | **-122** | **-1,456** | **13,165** | **-12,768** | **51,063** | **91,974** | **46,638** | **41,119** | **25,623** | **38,186** | **33,978** | **141,978** | **327,622** |
| Total receipt effect | 15 | -294 | 16,028 | -3,245 | 61,772 | 103,950 | 59,729 | 55,414 | 41,484 | 55,332 | 52,701 | 178,211 | 442,871 |
| Total outlay effect | 137 | 1,162 | 2,863 | 9,523 | 10,709 | 11,976 | 13,091 | 14,295 | 15,861 | 17,146 | 18,723 | 36,233 | 115,349 |

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Notes:

1/ Presentation in this table does not reflect the order in which these proposals were estimated.

2/ Table 2 below details the budgetary impact of adjusting the Budget Enforcement Act baseline to extend certain tax policies. These extensions were estimated before the policy proposals shown in this table.

3/ Tables 15-3 and 15-4 in the Analytical Perspectives of the FY 2012 Budget includes the effects of a number of proposals that are not reflected here. These proposals would levy a fee on the production of hardrock minerals to restore abandoned mines, expand short-time compensation unemployment program, increase fees for Migratory Bird Hunting and Conservation Stamps, support certain trade initiatives, reauthorize surface transportation, enhance UI integrity, and implement program integrity allocation adjustments for the IRS.

4/ This provision affects both receipts and outlays. The combined effects are shown here and the outlays effects included in these estimates are detailed in Table 3.

5/ Detail on the estimates included in this item are reported in Table 4.

6/ This provision is estimated to have zero receipt effect under the Administration's current projections for energy prices.

**Table 4: Supplementary Detail on the Effects of Continuing Certain Expiring Provisions Through Calendar Year 2012 1/**

| | | | | | | | Fiscal Years | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2012-2016 | 2012-2021 |
| | | | | | | | (in millions of dollars) | | | | | | |
| **Continue certain expiring provisions through calendar year 2012:** | | | | | | | | | | | | | |
| *Energy:* | | | | | | | | | | | | | |
| Incentives for biodiesel and renewable diesel | 0 | -465 | -462 | -3 | -2 | -1 | -1 | 0 | 0 | 0 | 0 | -933 | -934 |
| Credit for construction of energy efficient new homes | 0 | -34 | -33 | -10 | -8 | -5 | -4 | -2 | -2 | -2 | -1 | -90 | -101 |
| Incentives for alternative fuel and alternative fuel mixtures | 0 | -34 | -168 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -202 | -202 |
| Special rule to implement electric transmission restructuring | -3 | -205 | -118 | 43 | 52 | 52 | 52 | 52 | 54 | 22 | 0 | -176 | 4 |
| Grants for specified energy property in lieu of tax credits 2/ | 0 | -188 | -204 | -119 | -74 | 3 | 34 | 29 | 26 | 23 | 24 | -582 | -446 |
| Incentives for alcohol fuels | 0 | -2,346 | -2,430 | -8 | -3 | -2 | -2 | 0 | 0 | 0 | 0 | -4,789 | -4,791 |
| Extension and modification of section 25C nonbusiness energy property | 0 | -478 | -585 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -1,063 | -1,063 |
| Credit for energy efficient appliances | 0 | -7 | -6 | -5 | -3 | -2 | -1 | -1 | 0 | 0 | 0 | -23 | -25 |
| Alternative fuel vehicle refueling property (non-hydrogen refueling property) | 5 | 8 | 5 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 16 | 16 |
| *subtotal, energy* | *2* | *-3,749* | *-4,001* | *-100* | *-37* | *45* | *78* | *78* | *78* | *43* | *23* | *-7,842* | *-7,542* |
| *Individual tax relief:* | | | | | | | | | | | | | |
| Above-the-line deduction of up to $250 for teacher classroom expenses | 0 | -19 | -171 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -190 | -190 |
| Deduction of State and local general sales taxes | 0 | -905 | -1,357 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -2,262 | -2,262 |
| Contributions of capital gain real property made for qualified conservation purposes | 0 | -6 | -27 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -33 | -33 |
| Deduction for qualified tuition and related expenses | 0 | -88 | -791 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -879 | -879 |
| Tax-free distributions from IRAs to certain public charities for individuals age 70 1/2 or older, not to exceed $100,000 per taxpayer per year | 0 | -226 | -258 | -46 | -25 | -21 | -17 | -14 | -10 | -5 | -3 | -576 | -625 |
| Estate tax look-through for certain RIC stock held by nonresidents | 0 | -2 | -5 | -1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -8 | -8 |
| Parity for exclusion for employer-provided mass transit and parking benefits | 0 | -33 | -43 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -76 | -76 |
| *subtotal, individual tax relief* | *0* | *-1,279* | *-2,652* | *-47* | *-25* | *-21* | *-17* | *-14* | *-10* | *-5* | *-3* | *-4,024* | *-4,073* |
| *Business tax relief:* | | | | | | | | | | | | | |
| Indian employment tax credit | 0 | -10 | -18 | -14 | -11 | -9 | -6 | -5 | -5 | -3 | -3 | -62 | -84 |
| 50% tax credit for certain expenditures for maintaining railroad tracks | -123 | -112 | -34 | -16 | -9 | -4 | -2 | -1 | 0 | 0 | 0 | -175 | -178 |
| Mine rescue team training credit | 0 | -4 | -2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -6 | -6 |
| Employer wage credit for activated military reservists | 0 | -1 | -1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -2 | -2 |
| 15-year straight line cost recovery for qualified leasehold, restaurant and retail improvements | 0 | -38 | -108 | -141 | -143 | -144 | -144 | -144 | -145 | -145 | -145 | -574 | -1,297 |
| 7-year recovery period for certain motorsports racing track facilities | 0 | -6 | -17 | -17 | -10 | -4 | -3 | -4 | -1 | 6 | 9 | -54 | -47 |
| Accelerated depreciation for business property on Indian reservations | 0 | -160 | -265 | -82 | 36 | 83 | 99 | 54 | 17 | -6 | -13 | -388 | -237 |
| Enhanced charitable deduction for contributions of food inventory | 0 | -12 | -21 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -33 | -33 |
| Enhanced charitable deduction for contributions of book inventories to public schools | 0 | -43 | -77 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -120 | -120 |
| Enhanced charitable deduction for corporate contributions of computer inventory for educational purposes | 0 | -102 | -68 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -170 | -170 |
| Election to expense mine safety equipment | 0 | -1 | -1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -2 | -2 |
| Special expensing rules for certain film and television productions | -125 | -187 | -131 | -92 | -57 | -25 | -9 | -1 | 0 | 0 | 0 | -492 | -502 |
| Expensing of "Brownfields" environmental remediation costs | 0 | -210 | -118 | 13 | 12 | 12 | 12 | 11 | 11 | 10 | 10 | -291 | -237 |
| Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico | 0 | -106 | -70 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -176 | -176 |
| Modify tax treatment of certain payments under existing arrangements to controlling exempt organizations | 0 | -8 | -6 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -14 | -14 |
| Treatment of certain dividends of regulated investment companies (RICs) | 0 | -8 | -44 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -52 | -52 |
| Extend the treatment of RICs as "qualified investment entities" under section 897 | 0 | -10 | -7 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -17 | -17 |
| Exception under subpart F for active financing income | 0 | -1,850 | -1,233 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -3,083 | -3,083 |
| Look-through treatment of payments between related CFCs under foreign personal holding company income rules | 0 | -402 | -268 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -670 | -670 |
| Basis adjustment to stock of S corporations making charitable contributions of property | 0 | -8 | -12 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -20 | -20 |
| Tax incentives for investment in the District of Columbia | 0 | -13 | -31 | 0 | -3 | -7 | -16 | -21 | -16 | -17 | -17 | -54 | -141 |
| Temporary increase in limit on cover over of rum excise tax revenues (from $10.50 to $13.25 per proof gallon) to Puerto Rico and the Virgin Islands 2/ | 0 | -80 | -26 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -106 | -106 |
| Economic development credit for American Samoa | 0 | -6 | -8 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -14 | -14 |
| Work opportunity tax credit | 0 | -140 | -276 | -184 | -83 | -41 | -7 | 0 | 0 | 0 | 0 | -724 | -731 |
| Qualified zone academy bonds | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Premiums for mortgage insurance deductible as interest that is qualified residence interest | -2 | -102 | -144 | 10 | 9 | 7 | 5 | 4 | 2 | 1 | 0 | -220 | -208 |
| *subtotal, business tax relief* | *-250* | *-3,619* | *-2,986* | *-523* | *-259* | *-132* | *-71* | *-107* | *-137* | *-154* | *-159* | *-7,519* | *-8,147* |