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The Devil Is in the Details: Treasury Releases "Green Book" of Obama Administration FY 2013 Tax Priorities

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On February 13, the Treasury Department released its "General Explanations of the Administration's Fiscal Year 2013 Revenue Proposals." Known as the "Green Book," the document provides an explanation of the Administration's FY 2013 tax proposals. This alert summarizes the Administration's tax proposals, using the same organization and titles as used in the Green Book.

Many of the proposals included in the FY 2013 budget are the same as, or are modified versions of, proposals included in the Administration's FY 2012 budget and the Administration's submission in September 2011 to the Joint Select Committee on Deficit Reduction. The remainder largely includes provisions unveiled by the President during his State of the Union Address in January and in the days leading up to the release of the budget, including measures to encourage businesses to operate in the U.S. and to discourage them from moving offshore.

However, the budget includes nearly 30 new proposals, including:

- A temporary 10 percent tax credit for new jobs and wage increases;
- A move to tax as regular income dividends earned by taxpayers in the top two income tax brackets;
- A new Manufacturing Communities Tax Credit;
- A change in the treatment of dividends to be taxed as regular income;
- An increase in the domestic production activities deduction for certain manufacturing activities;
- Tax credits for advanced technology vehicles and medium- and heavy-duty alternative-fuel commercial vehicles;
- Changes to refunding rules for state and local bonds;
- Modifications to proration rules for life insurance general and separate accounts;
- A proposal to prevent the use of leveraged distributions from related foreign corporations to avoid dividend treatment;
- A proposal to prevent deductions for the contributions of conservation easements on golf courses;
- A streamlining of audit and adjustment procedures for large partnerships; and
- A coordination of certain income and transfer tax rules applicable to grantor trusts.

Notably, the budget does not include a specific proposal to enforce the so-called "Buffett Rule," the President's stated principle of requiring those with incomes of more than $1 million to pay an effective tax rate no lower than 30%. The budget document, however, does state that the Administration will "work to ensure that this rule is implemented in a way that is equitable, including not disadvantaging individuals who make large charitable contributions." The budget also states that the Buffett Rule would replace the individual Alternative Minimum Tax ("AMT").

A Summary of the Administration's Fiscal Year 2013 Revenue Proposals

Temporary Tax Relief to Create Jobs and Jumpstart Growth

Temporary Payroll Tax Relief

Under the Temporary Payroll Tax Cut Continuation Act of 2011, the employee share of the payroll tax is reduced from 6.2% to 4.2% through February 29, 2012. The Administration is proposing to extend the 2.0% reduction for employees and the self-employed. Costs $31.158 billion over 10 years.

100% Bonus Depreciation

Under current law, there is an additional first-year depreciation deduction equal to 100% for qualified property placed in service before January 1, 2012. The Administration is proposing extending the additional 100% deduction through December 31, 2012. Raises $30.922 billion over 10 years.

Provide a Temporary 10% 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% of the increase in the employer's 2012 eligible wages over the prior year (2011). Costs $18.448 billion over 10 years.

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

A 30% tax credit is provided 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. However, the $2.3 billion cap on the credit has been met. The proposal would authorize an additional $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. A similar proposal was in the Obama Administration's FY 2012 budget. Costs $3.484 billion over 10 years.

Provide Tax Credit for Energy-Efficient Commercial Building Property Expenditures in Place of Existing Tax Deduction

Under current law, taxpayers are allowed to deduct expenditures for energy-efficient commercial building property. Under the proposal, a tax credit would replace the deduction. The tax credit would

be equal to the cost of property that is certified as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting, heating, cooling, ventilation, and hot water systems of the building by 20% or more in comparison to a reference building which meets the minimum requirements of ASHR2AE/IESNA Standard 90.1-2004. There would be a tiered maximum credit amount of $0.60 to $1.80 per square foot for property designed to reduce energy costs, depending on the amount of energy efficiency achieved. A similar proposal was in the Obama Administration's FY 2012 budget. Costs $1.655 billion over 10 years.

Reform and Extend Build America Bonds ("BABs")

Established in ARRA and expired at the end of 2010, the BABs program allows the Treasury to make direct payments to state and local governmental issuers to subsidize a portion of their borrowing costs in an amount equal to 35% of the coupon interest on the bonds. This proposal would make the BABs program permanent. The federal subsidy level would be equal to 30% of the coupon interest on the bonds through 2013 and 28% thereafter. Additionally, the proposal would also expand the eligible uses for BABs to include the following: (1) original financing for governmental capital projects; (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, subject to a 13-month maturity limitation; and (4) financing for Section 501(c)(3) nonprofit entities. A similar proposal was in the Obama Administration's FY 2012 budget. Costs $1.101 billion over 10 years.

Tax Cuts for Families and Individuals

Expand the American Opportunity Tax Credit ("AOTC")

The proposal would make the AOTC – set to expire at the end of 2012 – a permanent replacement for the Hope Scholarship credit. Under AOTC, taxpayers are provided a credit of up to $2,500 per student per year for qualified tuition and related expenses for each of the first four years of the student's post-secondary education. The student must be enrolled at least half-time to receive the credit. The AOTC is equal to 100% of the first $2,000 in qualified tuition and related expenses, and 25% of the next $2,000 of qualified tuition and related expenses. In addition, generally 40% of the otherwise allowable credit is refundable. The credit is phased out ratably for single taxpayers with modified AGI between $80,000 and $90,000 ($160,000 and $180,000 for married taxpayers filing a joint return). The Administration proposes to permanently extend AOTC and index for inflation the expense amounts and phase-out limits. A similar proposal was in the Obama Administration's FY 2012 budget. Costs $137.370 billion over 10 years.

Provide for Automatic Enrollment in IRAs and Double the Tax Credit for Small Employer Plan Startup Costs

The Administration proposes to require employers in businesses with more than 10 employees who do not currently offer a retirement plan to offer automatic enrollment in an IRA to all of their employees, effective 2014. Small employers with up to 100 employees could offset the cost of providing automatic payroll-deposit IRAs by claiming a temporary tax credit equal to $25 per enrolled employee up to a maximum credit amount of $250, which would last for two years. In addition, employers would be able to receive a temporary tax credit up to $500 for the first year and $250 for the second year for offering the arrangement. Additionally, the Administration proposes to double the "start up costs" tax credit for small employers who provide a new qualified retirement or SIMPLE plan. Small

employers would be eligible to claim a maximum "start up costs" credit of $1,000 per year for three years. As under current law, the "start up costs" tax credit is not available to employers providing automatic or other payroll deduction IRAs. A similar proposal was proposed in the Obama Administration's FY 2012 budget. Costs $15.022 billion over 10 years.

Expand the Earned Income Tax Credit ("EITC")

The EITC generally equals a specified percentage of earned income, up to a maximum dollar amount, that is reduced by the product of a specified phase-out rate and the amount of earned income or AGI, if greater, in excess of a specified income threshold. The Administration proposes to permanently extend the 45% credit for families with three or more children. A similar proposal was in the Obama Administration's FY 2012 budget. Costs $14.009 billion over 10 years.

Expand the Child and Dependent Care Tax Credit

Taxpayers are provided a nonrefundable tax credit for up to 35% 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% for every $2,000 of AGI in excess of $15,000 until the percentage reaches 20%. 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% for every $2,000 of AGI over the $75,000 threshold until the percentage reaches 20%. A similar proposal was in the Obama Administration's FY 2012 budget. Costs $10.217 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 2015. Costs $2.706 billion over 10 years.

Provide Exclusion from Income for Certain Student Loan Forgiveness

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 2012 budget. Negligible revenue effect.

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. The proposal would be effective for loan amounts discharged after 2012 and for qualifying amounts received after 2012. Costs $20 million over 10 years.

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 $90 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% 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 currently conducted outside the U.S., to the extent that new U.S. jobs are created.

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 2012 through 2014. Costs $4.426 billion over 10 years.

Target the Domestic Production Deduction to Domestic Manufacturing Activities and Double the Deduction for Advanced Manufacturing Activities

Certain domestic companies are allowed a deduction for income attributable to domestic production activities. The deduction is generally equal to 9% of the lesser of qualified production activities income or taxable income (adjusted gross income for individuals) for the tax year. It is computed at a 6% rate for income attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof. The proposal would limit the extent to which the domestic

production deduction is allowed with respect to nonmanufacturing activities by excluding any gross receipts derived from sources such as the production of oil and gas, the production of coal and other hard mineral fossil fuels, and certain other nonmanufacturing activities. Additional revenue would be used to increase the general deduction percentage and to fund an increase of the deduction rate for manufacturing activities involving certain advanced technology property to approximately 18%. Negligible revenue impact.

Make Research & Experimentation Tax Credit Permanent

The research and experimentation tax credit, which expired on December 31, 2011, is 20% of qualified research expenses above a base amount. Taxpayers can also elect the alternative simplified research credit, equal to 14% of qualified research expenses that exceed 50% 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% to 17%. A similar proposal was in the Obama Administration's FY 2012 budget. Costs $108.535 billion over 10 years.

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 substantiallly exceed the footprint-based target miles per gallon gasoline equivalent ("MPGe"). 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 between the date of enactment and 2020, except that the credit would be phased out at 75% of the otherwise available amount for vehicles placed in service in 2017, 50% for vehicles placed in service in 2018, and 25% in 2019. The credit would be available to the person placing the vehicle in service but only if the amount of the credit is disclosed to the purchaser. Costs $1.995 billion over 10 years.

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

Current law provides no tax incentive for vehicles weighing more than 14,000 pounds. The Administration's proposal would provide a tax credit for dedicated alternative-fuel commercial vehicles weighing more than 14,000 pounds. The credit would be equal to 50% 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, 2012 and before January 1, 2019. The credit would also be limited to 50% of the otherwise allowable amount for vehicles placed in service in calendar year 2018. 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 $1.697 billion over 10 years.

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Extend and Modify Certain Energy Incentives

Current law provides production tax credits for wind facilities placed in service in 2012 and other renewable energy facilities placed in service before 2014. Current law also provides an investment tax credit for energy property. In addition, current law provides grants for energy property on which construction began in 2009, 2010, or 2011. The proposal would extend the production tax credit for wind facilities and the investment tax credit for wind facility property through 2013. The proposal would also extend the grant program to all otherwise qualifying property placed in service in 2012. For property placed in service after 2012, the proposal would replace the grant program with a refundable income tax credit administered by the IRS. This refundable credit would be available for property on which construction begins between 2009 and 2013. The proposal's refundable credit would be allowed with respect to property placed in service in 2013 and for property placed in service between 2013 and 2016. Costs $3.870 billion over 10 years.

Tax Relief for Small Businesses

Eliminate Capital Gains Taxation on Investments in Small Business Stock

Generally, taxpayers other than corporations may exclude 50% 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% 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. The Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 extended this 100% exclusion to eligible stock acquired before January 1, 2012. The excluded gain is not a preference under the Alternative Minimum Tax ("AMT") for stock acquired during this period. The proposal would permanently adopt the 100% exclusion for qualified small business stock sold by an individual or other non-corporate taxpayer and would eliminate the AMT preference item for gain excluded under this proposal. A similar proposal was in the Obama Administration's FY 2012 budget. Costs $7.991 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. Costs $3.073 billion over 10 years.

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% (25% for tax-exempt employers) of the employer's contributions to the premium. For 2014 and later years, the maximum credit percentage is

50% (35% 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. Costs $14.161 billion over 10 years.

Incentives to Promote Regional Growth

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

The NMTC is a 39% credit for qualified equity investments ("QEIs") 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 for two more rounds, with an allocation amount of $5.0 billion for each round. Additionally, the proposal also would permit NMTC amounts resulting from QEIs made after December 31, 2011, to offset AMT liability. A similar proposal was in the Obama Administration's FY 2012 budget. Costs $3.370 billion over 10 years.

Growth Zones

Current law contains various incentives targeted to encourage the development of particular geographic regions. In the budget, the Administration proposes to designate 20 growth zones (14 in urban areas and 6 in rural areas), chosen through a competitive application process. Nominated areas would be designated as growth zones based on the strength of the applicant's "competitiveness plan" and its need to attract investment and jobs. A similar proposal was in the Obama Administration's FY 2012 budget. Costs $3.150 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 2012 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. Costs $176 million over 10 years.

Allow Current Refundings of State and Local Government Bonds

In the tax-exempt bond area, a "current refunding" or "current refunding issue" refers to bonds used to refinance prior bonds in circumstances in which the prior bonds are redeemed or retired within 90 days after issuance of the current refunding bonds. The extent to which statutory provisions address current refundings has varied among different state and local bond program provisions. The proposal

would provide a uniform general provision to authorize current refundings of state or local bonds upon satisfaction of certain requirements. Negligible revenue impact.

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

Encourage Mixed Income Occupancy by Allowing LIHTC-Supported Projects to Elect a Criterion Employing a Restriction on Average Income

Current law provides a LIHTC commensurate to the percentage of qualified basis in a new or substantially renovated qualified low-income residential rental property. The taxpayer must make an election between two criteria: (1) at least 20% of the units must be rent restricted and occupied by tenants with income at or below 50% of area median income (AMI); or (2) at least 40% of the units must be rent restricted and occupied by tenants with incomes at or below 60% of AMI. The proposal would add a third criterion to the two described above. When a taxpayer elects this criterion, at least 40% of the units would have to be occupied by tenants with incomes that average no more than 60% of AMI. No rent-restricted unit, however, could be occupied by a tenant with income over 80% of AMI. A similar proposal was in the Obama Administration's FY 2012 budget. Costs $120 million over 10 years.

Make LIHTC Beneficial to Real Estate Investment Trusts ("REITs")

Under current law, REITs and regulated investment companies receive no benefit from becoming entitled to a general business credit under section 38, such as LIHTC. The proposal would permit a REIT that receives LIHTCs to designate as tax exempt some of the dividends that it distributes. Dividends so designated would be excluded from the gross income of the shareholders that receive them. Negligible revenue impact.

Provide 30% Basis "Boost" to Properties That Receive Allocation of Tax-Exempt Bond Volume Cap and That Consume That Allocation

Under current law, a building owner may receive 70% present-value LIHTCs if the state housing credit agency allocates the credits. Also a building owner may receive 30% present-value LIHTCs if the building is at least 50% financed with tax-exempt bonds that are subject to the private activity bond volume cap. In both cases, the annual credit received by the building owner is the product of the credit rate times the qualified basis. The proposal would provide two additional incentives for investment in preservation projects. First, there would be a more efficient way to qualify for 30% present-value credits; second, there would be the possibility of an additional 30% "boost" to qualified basis. A similar proposal was in the Obama Administration's FY 2012 budget. Costs $783 million over 10 years.

Require LIHTC-Supported Housing to Provide Protections to Victims of Domestic Violence

Under current law, occupancy in a LIHTC-supported building does not result in any protection for victims of domestic violence. The proposal would extend protections similar to those provided in the Violence Against Women Act to all LIHTC long-term use agreements. Negligible revenue impact.

Continue Certain Expiring Provisions through Calendar Year 2013

A number of temporary tax provisions that have been routinely extended have expired or are scheduled to expire on or before December 31, 2012. The Administration proposes to extend a

number of these provisions through December 31, 2013. For example, the optional deduction for state and local general sales taxes; the deduction for qualified out-of-pocket classroom expenses; the Subpart F "active financing" and "look-through" exceptions; the modified recovery period for qualified leasehold, restaurant, and retail improvements; and several trade agreements would be extended through December 31, 2013. Temporary incentives provided for the production of fossil fuels would be allowed to expire as scheduled under current law. Costs $26.005 billion over 10 years.

Upper Income Tax Provisions

Reinstate the Limitation on Itemized Deductions for Upper-Income Taxpayers

Prior to 2001, the deduction for personal exemptions for a taxpayer was phased out at certain thresholds. In addition, the amount of otherwise allowable itemized deductions (other than medical expenses, investment interest, theft and casualty losses, and wagering losses) was reduced by 3% of AGI in excess of certain thresholds, but not by more than 80%. The 2001 tax cuts phased in the repeal of the phase-out of personal exemptions and the limitation on itemized deductions over a five-year period, 2006 through 2010. The repeal of the limitation on itemized deductions was extended through 2012. The Administration proposes to reinstate the limitations on itemized deductions for taxpayers with adjusted gross incomes of less than $200,000 (single) and $250,000 (married), effective 2013. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $122.985 billion over 10 years.

Reinstate the Personal Exemption Phase-out for Upper-Income Taxpayers

The 2001 tax cuts phased in the repeal of the phase-out of personal exemptions over a five-year period, 2006 through 2010. The repeal of the phase-out of personal exemptions was extended for two years through 2012. The Administration proposes to reinstate the phase-out of personal exemptions for taxpayers with adjusted gross incomes of less than $200,000 (single) and $250,000 (married), effective 2013. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $41.942 billion over 10 years.

Reinstate the 36% and 39.6% Rates for Upper-Income Taxpayers

Currently, individual income is taxed at 10%, 15%, 25%, 28%, 33% and 35% rates. Prior to 2001, the highest individual income tax rates were 36% and 39.6%. In 2010, marginal rates were set to revert to pre-2001 levels, but Congress extended those rates through 2012. The Administration proposes to replace part of the 33% tax rate bracket and the entire 35% tax rate bracket with the prior law tax brackets of 36% and 39.6%. These rate increases would apply to taxpayers with incomes of more than $200,000 (single) and $250,000 (married). A similar proposal was in the Obama Administration's FY 2012 budget. Raises $441.554 billion over 10 years.

Tax Qualified Dividends as Ordinary Income for Upper-Income Taxpayers

Prior to 2003, dividends were taxed as ordinary income at rates of 15% to 39.6%. Under the 2003 tax cuts, the maximum tax rate on qualified dividends by an individual shareholder was temporarily reduced to 15% for taxpayers in individual income tax rate brackets above 15% and to 0% for taxpayers in the 10% or 15% regular income tax brackets. Congress extended these rates through the end of 2012. The Administration proposes to tax qualified dividends at ordinary income tax rates for most taxpayers with incomes over $200,000 (single) and $250,000 (married). All other taxpayers

would be taxed at the rates effective in 2012. The proposal would be effective for dividends received beginning in 2013. Raises $206.415 billion over 10 years.

Tax Net Long-Term Capital Gains at a 20% Rate for Upper-Income Taxpayers

Prior to 2003, the maximum tax rate on capital gains was generally 20%. Under the 2003 tax cuts, the maximum tax rate on net capital gains was temporarily reduced to 15% for taxpayers in individual income tax rate brackets above 15% and to 0% for taxpayers in the 10% or 15% regular income tax brackets. Congress extended this reduction through the end of 2012. The Administration proposes to tax capital gains at a 20% rate for taxpayers with incomes over $200,000 (single) and $250,000 (married). The Administration also proposes repealing the 18% capital gains rate on assets held over five years, but retaining special rates on gains from the recapture of certain real estate, collectibles, and small business stock. The proposal would be effective for capital gains realized beginning in 2013. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $35.966 billion over 10 years.

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% whenever they would otherwise reduce taxable income. This limitation, which would be effective beginning in 2013, would only affect taxpayers with incomes over $200,000 (single) and $250,000 (married) 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 is an expansion of a similar proposal in the Obama Administration's FY 2012 budget. Raises $584.197 billion over 10 years.

Modify Estate and Gift Tax Provisions

Reinstate 2009 Parameters of Estate and Gift Tax

In 2009, the estate tax provided for an estate tax exemption of $3.5 million and a top rate of 45% 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%. In 2013, the top estate tax rate increases to 55% and a $1 million exemption applies. The proposal would reinstate the estate and gift tax parameters in effect in 2009. A similar proposal was in the Obama Administration's FY 2012 budget. Costs $118.797 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. Raises $2.014 billion over 10 years.

Modify Rules on Valuation Discounts

Under 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. 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 to or for the benefit of other family members. 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 transferor's family. Specifically, the transferred interest would be valued by substituting for the disregarded restrictions certain assumptions to be specified in regulations. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $18.079 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 2012 budget. Raises $3.334 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 2012 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 have 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. Raises $910 million over 10 years.

The Devil Is in the Details: Treasury Releases "Green Book" of Obama Administration FY 2013 Tax Priorities

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. Raises $160 million 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 2012 budget. Raises $37.253 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 2012 budget. The Administration's current proposal raises $60.835 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% or less, the proposal would treat all excess income as Subpart F. The proposal would phase out for effective rates between 10% and 15%. 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 2012 budget proposal. Raises $22.973 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 into 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 2012 budget. Raises $1.623 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 foreign 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 2012 budget proposal. Raises $2.449 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% 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% and 80% continuity of shareholder interest. The current law debt-to-equity safe harbor would be eliminated, and the 50% adjusted taxable income threshold would be reduced to 25%. 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 2012 budget proposal. Raises $4.432 billion over 10 years.

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 2012 budget. Raises $10.724 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% 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. The proposal is estimated to raise $2.561 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, 2012. Raises $3.323 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, 2012. 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% 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, 2012. Raises $389 million over 10 years.

Reform Treatment of Financial and Insurance 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. 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% 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, 2014. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $61.342 billion over 10 years.

Require Accrual of Income on Forward Sale of Corporate Stock

Under current law, a corporation does not recognize gain or loss on the forward sale of its own stock, but it does recognize interest income upon the current sale of any stock (including its own) for deferred payment. The proposal argues that there is little substantive difference between a corporate issuer's current sale of its stock for deferred payment and an issuer's forward sale of the same stock, other than the timing of the stock issuance. The proposal would require a corporation that enters into a forward contract to issue its stock to treat a portion of the payment on the forward issuance as a

payment of interest. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $303 million over 10 years.

Require Ordinary Treatment of Income from Day-to-Day Dealer Activities for Certain Dealers of Equity Options and Commodities

Under current law, special rules apply to certain transactions in section 1256 contracts by commodities dealers, commodities derivatives dealers, dealers in securities, and options dealers. These dealers treat 60% of their incomes (or losses) from their dealer activities in section 1256 contracts as long-term capital gains (or losses) and 40% of their incomes (or losses) as short-term capital gains (or losses). The proposal would make the treatment of income for these types of dealers consistent with that of other day-to-day dealers by characterizing it as ordinary income. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $2.911 billion over 10 years.

Modify the Definition of "Control" for Purposes of IRC Section 249

In general, if a corporation repurchases a debt instrument that is convertible into its stock, or into stock of a corporation in control of or controlled by the corporation, section 249 may disallow or limit the issuer's deduction for a premium paid to repurchase the debt instrument. The proposal would amend the definition of "control" in section 249(b)(2) to incorporate indirect control relationships of the nature described in section 1563(a)(1). A similar proposal was in the Obama Administration's FY 2012 budget. Raises $192 million 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 2012 budget. Raises $811 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% 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 2012 budget. Raises $7.706 billion over 10 years.

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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% 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% owners of a business that is the owner or beneficiary of the contracts. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $7.310 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% 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 2013. A similar proposal was in the Obama Administration's FY 2012 budget. Negligible revenue effect.

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% 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 2013. A similar proposal was in the Obama Administration's FY 2012 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 2012. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $13.902 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 2013. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $100 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. An exception is provided, however, 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 2013. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $82 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% to 25% and the deduction may not exceed 100% of the taxable income from the property and may not exceed 65% of the taxpayer's overall taxable income. Under the Administration's proposal, effective as of 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 2012 budget. Raises $11.465 billion over 10 years.

Increase the Amortization Period for Geological and Geophysical Costs 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 2011. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $1.400 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 2013. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $440 million over 10 years.

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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% and for oil shale properties used for fuel purposes, the percentage is 15%. The deduction may not exceed 50% of the taxable income from the property. Under the Administration's proposal, effective for taxable years beginning in 2013, 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% 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 2012 budget. Raises $1.744 billion over 10 years.

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 gain 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 gain treatment. The proposal is effective for amounts realized beginning in 2013. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $422 million over 10 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, 2013, and to 10 cents per barrel for periods after December 31, 2016. 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 2012 budget. Raises $717 million 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% 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 2012 budget. Raises $20.958 billion over 10 years.

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Make Unemployment Insurance Surtax Permanent

The Federal Unemployment Tax Act ("FUTA") currently imposes a federal payroll tax on employers of 6.0% 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%, 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% surtax permanent on or after January 1, 2013 to support the continued solvency of the federal unemployment trust funds. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $13.936 billion over 10 years.

Expand FUTA Base

The FUTA currently imposes a federal payroll tax on employers of 6.0% 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%, making the minimum net federal rate 0.6%. 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 2012 and 2013. The proposal would also raise the FUTA wage base to $15,000 per worker paid annually in 2015, index the wage base to wage growth for subsequent years, and reduce the net federal UI tax from 0.8% (after the proposed permanent extension of the FUTA surtax) to 0.37%. 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 2012 budget. Raises $47.843 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. 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 2012 budget. Raises $73.782 billion over 10 years.

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 2012 budget. Raises $13.059 billion over 10 years.

Eliminate Special Depreciation Rules for Purchases of 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, 2012. A similar proposal was included in the President's submission to the Joint Select Committee on Deficit Reduction. Raises $2.206 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 2012 budget. Raises $874 million 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, 2012. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $13.496 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. Raises $64 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 capital account only to the extent the partner's adjusted basis in its partnership interest at the end of the partnership year. Raises $826 million over 10 years.

Limit the Importation of Losses under Section 267

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 $767 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. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $319 million over 10 years.

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. Raises $593 million over 10 years.

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% of the value of the account. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $10 million over 10 years.

The Devil Is in the Details: Treasury Releases "Green Book" of Obama Administration FY 2013 Tax Priorities

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 2012 budget. Raises $1.413 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 2012 budget. Negligible revenue effect.

Authorize the Department of Treasury to Require Additional Information to Be Included in Electronically Filed Form 5500 Annual 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. A similar proposal was in the Obama Administration's FY 2012 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 2012 budget. Raises $65 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. Raises $8.372 billion over 10 years.

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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 2012 budget. Negligible revenue effect.

Eliminate Special Rules Modifying the Amount of Estimated Tax Payments by Corporations

Under current law, corporations generally are required to pay their income tax liability for a taxable year in quarterly estimated payments. The amount due each quarter is generally one-quarter (25%) of the amount due for the year. A number of legislative acts have modified the standard rules as to the amount due by "large corporations" for a particular quarter. The proposal would repeal all legislative acts that cause the amount and timing of corporate estimated payments to differ from the rules. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $300 million over 10 years.

Strengthen Tax Administration

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. Raises $1.714 billion over 10 years.

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 2012 budget. Raises $20 million over 10 years.

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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 2012 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 2012 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 2012 budget. Raises $8 million over 10 years.

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 2012 budget. Raises $25 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. 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 2012 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. Raises $19 million over 10 years.

Improve and Make Permanent the Provision Authorizing the IRS to Disclose Certain Return Information to Certain Prison Officials

Until December 31, 2011, the IRS was authorized to disclose to federal and state prison officials return information for prisoners the IRS had determined might have filed or facilitated the filing of a false return. The Administration is proposing extending and making permanent this authority. Negligible revenue effect.

Extend Internal Revenue Service 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). Raises $173 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% of the amount required to be shown as tax due on the return, for the first month of failure, and an additional 5% for each month or part of a month thereafter, up to a maximum of 25%. 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 2012 budget. Raises $10 million over 10 years.

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 Earned Income Tax Credit ("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. Costs $5.355 billion 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. The MRD requirements would phase in ratably for individuals with aggregate retirement benefits between $75,000 and $85,000. This is an expansion of a proposal included in the Obama Administration's FY 2012 budget. Costs $355 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 2012 budget. Negligible revenue effect.

Clarify Exception to Recapture of Unrecognized Gain on Sale of Stock to an Employee Stock Ownership Program

Under current law, there is a question as to whether the transfer of qualified replacement property triggers recapture when incident to a divorce. The proposal would clarify that no such recapture is triggered. A similar proposal was in the Obama Administration's FY 2012 budget. Negligible revenue effect.

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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 2012 budget. Raises $388 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 2012 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%. 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% 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 2012 budget. Costs $54 million over 10 years.

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 Tax-Exempt Bonds

Simplify Tax-Exempt Bond Arbitrage Investment Rules

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 2012 budget. Costs $431 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 2012 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% 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% unrelated or disproportionate private business use limit. The proposal would repeal the 5% 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 2012 budget. Costs $110 million over 10 years.

User Fees

Reform Inland Waterways Funding

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 2012 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 2012 budget. Negligible revenue effect.

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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 2012 budget. Negligible revenue effect.

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

TIGTA is mandated to conduct reviews of certain administrative and civil actions and reviews of 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 2012 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 2012 budget. Negligible revenue effect.

Program Integrity Initiatives

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

Treasury is authorized to continuously levy up to 15% of a payment to a Medicare provider in order to collect delinquent tax debt. The proposal would allow Treasury to levy up to 100% of a payment to a Medicare provider to collect unpaid taxes. A similar proposal was in the Obama Administration's FY 2012 budget. Raises $717 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 2013 will fund about $350 million in new revenue-producing initiatives above current levels of enforcement and compliance activity. Beyond 2013, the Administration proposes further increases of about $350 million each year from 2014 through 2017, and to fund all of the new initiatives and inflationary costs via cap adjustments through FY 2021 and sustain this support in FY 2022. Raises $43.652 billion over 10 years.

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