FEDERAL RECEIPTS AND COLLECTIONS

17. FEDERAL RECEIPTS

After years of large tax reductions that have disproportionately benefited high-income Americans, the country has been left with a tax code that is unbalanced and insufficient to meet national needs. The Administration's agenda represents a change in course, providing tax relief to 95 percent of working Americans while asking corporations and high-income families making more than $250,000 to pay more after the recession ends.

Within one month of taking office, the Administration took action to jumpstart the economy and provide immediate tax relief to 95 percent of working Americans by enacting the making work pay tax credit in the American Recovery and Reinvestment Act (ARRA). This is a refundable tax credit that, for the next two years, provides annual tax relief of up to $400 for working individuals and $800 for working families. ARRA also includes a number of other tax measures that will, for instance, increase educational opportunity by helping students pay for higher education expenses, provide support to families with children most in need, and give relief to small businesses that are hurting in these hard economic times.

The tax proposals in this Budget would build on what was accomplished in ARRA. The Budget proposes to make permanent making work pay and other provisions in ARRA that would provide tax relief to working families and increase educational opportunity. It also seeks to rebalance the tax code by returning top ordinary income tax rates to what they were during most of the 1990s for families making more than $250,000 and eliminating subsidies and loopholes that benefit only narrow and often well-funded interest groups, such as oil companies. The Budget further proposes to reform the international tax code by reducing incentives for U.S.-based multinational corporations to invest abroad rather than in the United States and also proposes enforcement measures that will cut into the gap between what is owed under the tax law and what is paid.

In addition, the President has asked the President's Economic Recovery Advisory Board, led by Paul Volcker, to identify further options for simplifying the tax system, increasing tax compliance, and closing tax loopholes and has requested that the Board report back with such options by December 4, 2009.

ESTIMATES OF FEDERAL RECEIPTS

Receipts (budget and off-budget) are taxes and other collections from the public that result from the exercise of the Federal Government's sovereign or governmental powers. The difference between receipts and outlays is the surplus or deficit.

The Federal Government also collects income from the public from market-oriented activities. Collections from these activities, which are subtracted from gross outlays, rather than added to taxes and other governmental receipts, are discussed in the next Chapter.

Total receipts in 2009 are estimated to be $2,156.7 billion, a reduction of $367.7 billion or 14.6 percent from 2008. The estimated decline in receipts in 2009 is in large part attributable to the effects of the current recession on

Table 17–1. RECEIPTS BY SOURCE—SUMMARY
(in billions of dollars)

	2008 Actual	Estimate										
		2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Individual income taxes	1,145.7	953.0	1,051.4	1,211.4	1,381.2	1,500.9	1,612.7	1,710.8	1,809.3	1,916.1	2,028.9	2,146.6
Corporation income taxes	304.3	146.8	178.9	305.8	377.8	417.1	420.2	450.3	467.9	487.1	511.1	536.2
Social insurance and retirement receipts	900.2	899.2	940.4	994.8	1,052.0	1,114.6	1,166.6	1,212.6	1,267.5	1,314.7	1,367.5	1,429.0
(On-budget)	(242.1)	(244.3)	(257.1)	(275.7)	(294.4)	(310.6)	(322.8)	(332.6)	(340.4)	(350.4)	(361.4)	(379.2)
(Off-budget)	(658.0)	(654.9)	(683.2)	(719.1)	(757.6)	(804.0)	(843.8)	(880.0)	(927.1)	(964.2)	(1,006.2)	(1,049.7)
Excise taxes	67.3	66.3	74.7	73.4	76.6	77.8	79.0	80.1	81.2	81.9	82.7	83.2
Estate and gift taxes	28.8	26.3	19.8	21.2	22.5	24.2	25.0	26.7	28.5	30.5	32.7	35.0
Customs duties	27.6	23.9	23.9	28.5	33.6	37.4	40.3	43.2	45.8	47.7	49.0	50.5
Miscellaneous receipts	50.3	41.1	43.4	50.3	54.9	56.2	59.0	61.0	62.7	64.6	66.6	68.6
Climate revenues	......	......	......	......	76.7	76.9	77.2	77.7	78.3	78.6	79.1	79.5
Total receipts	2,524.3	2,156.7	2,332.6	2,685.4	3,075.3	3,305.1	3,480.1	3,662.3	3,841.3	4,021.1	4,217.7	4,428.5
(On-budget)	(1,866.3)	(1,501.8)	(1,649.4)	(1,966.3)	(2,317.7)	(2,501.2)	(2,636.3)	(2,782.3)	(2,914.2)	(3,056.9)	(3,211.5)	(3,378.8)
(Off-budget)	(658.0)	(654.9)	(683.2)	(719.1)	(757.6)	(804.0)	(843.8)	(880.0)	(927.1)	(964.2)	(1,006.2)	(1,049.7)
Total receipts as a percentage of GDP	17.7	15.1	15.8	17.3	18.7	18.9	18.9	19.1	19.1	19.2	19.3	19.4

personal income and corporate profits, which reduce payroll taxes and individual and corporation income taxes, the three largest sources of receipts. Tax relief enacted in ARRA and additional relief proposed in the Budget also contribute to this decline. These provisions will counteract the negative effects of the current economic downturn by boosting household income and business cash flow, but they also have the effect of reducing Federal receipts. Overall, receipts in 2009 are estimated to be 15.1 percent of Gross Domestic Product (GDP), the lowest share since 1950, when receipts were 14.4 percent of GDP.

As the economy begins to recover from the recession, receipts are estimated to rise to $2,332.6 billion in 2010, an increase of $176.0 billion or 8.2 percent relative to 2009. Receipts are projected to grow at an average annual rate of 10.5 percent between 2010 and 2014, rising to $3,480.1 billion. Receipts are projected to rise to $4,428.5 billion in 2019, growing at an average annual rate of 4.9 percent between 2014 and 2019. This growth in receipts is largely due to assumed increases in incomes resulting from both real economic growth and inflation. The Administration's proposals to restore balance to the tax code, to close loopholes, and to eliminate subsidies to special interests contribute to the growth in receipts, beginning in 2011.

As a share of GDP, receipts are projected to increase from 15.1 percent in 2009 to 15.8 percent in 2010, and to rise to 19.4 percent in 2019. However, as a share of GDP, receipts would still be lower than during the latter half of the 1990s when the receipts share of GDP reached 20 percent.

LEGISLATION ENACTED IN 2009 THAT AFFECTS GOVERNMENTAL RECEIPTS

In one of his first official acts, President Obama signed into law the reauthorization of the Children's Health Insurance Program (CHIP) on February 4, 2009. This Act provides the support, options and incentives for States to provide coverage for an additional four million children on average in CHIP and Medicaid who were previously uninsured. Shortly thereafter, on February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009, the most ambitious effort to stimulate the economy in the Nation's history. The provisions of this Act provide a direct fiscal boost to help lift our Nation from the most significant economic crisis since the Great Depression and lay the foundation for further growth. President Obama also signed into law the Federal Aviation Administration Extension Act of 2009, which extended the authority to collect taxes that fund the Airport and Airway Trust Fund.

The major provisions of these three Acts that affect governmental receipts are described below.[1]

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009

Increase excise tax rates on tobacco products and make administrative improvements.—Tobacco products (cigars, cigarettes, cigarette papers and tubes, snuff, chewing tobacco, pipe tobacco and roll-your-own tobacco) manufactured in the United States or imported into the United States are subject to Federal excise taxes. This Act increased the Federal excise tax on cigarettes, which was 39 cents per pack under prior law, to $1.01 per pack; excise taxes on other tobacco products were increased in a generally proportionate manner. The definition of "roll-your-own tobacco" was expanded to include any tobacco used for making cigars, or for use as wrappers for making cigars. In addition, a tax was imposed on floor stocks of tobacco products (other than certain cigars and cigarette papers and tubes), reduced by a $500 tax credit. These changes in tobacco excise taxes were effective for articles removed from the factory or released from customs custody after March 31, 2009.

Strengthen regulatory and enforcement authority.—This Act also strengthened regulatory and enforcement authority over the production and importation of tobacco by: (1) subjecting manufacturers and importers of "processed tobacco" to current law permit, inventory, reporting, and recordkeeping requirements; (2) broadening the authority of the Department of the Treasury to deny, suspend, and revoke tobacco permits for holders that fail to comply with the tax code and related regulations; (3) clarifying that the three-year statute of limitations for assessment of taxes applies to taxes on imported alcohol, tobacco products, and cigarette papers and tubes; (4) imposing a tax on the unlawful manufacture of tobacco products and cigarette papers and tubes; and (5) making certain tax return information related to civil actions against tobacco companies available to the Department of Justice. These changes generally were effective on February 4, 2009.

Modify the timing of estimated tax payments by corporations.—Corporations generally are required to pay their income tax liability in quarterly estimated payments. For corporations that keep their accounts on a calendar year basis, these payments are due on or before April 15, June 15, September 15 and December 15. If these dates fall on a holiday or weekend, payment is due on the next business day. This Act increased the estimated tax payments due in July through September of 2013 by corporations with assets of at least $1 billion to 120.5 percent of the amount otherwise due. For corporations affected by this provision, the next required estimated tax payment is reduced accordingly.

1 In the discussions of enacted legislation, years referred to are calendar years, unless otherwise noted.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

Tax Relief for Individuals and Families

Increase and extend the alternative minimum tax (AMT) exemption amounts.—A temporary provision of prior law increased the AMT exemption amounts to $46,200 for single taxpayers, $69,950 for married taxpayers filing a joint return and surviving spouses, and $34,975 for married taxpayers filing a separate return and for estates and trusts. These temporary increases were effective for taxable years beginning after December 31, 2007 and before January 1, 2009. This Act increased the AMT exemption amounts, effective for taxable years beginning after December 31, 2008 and before January 1, 2010, to $46,700 for single taxpayers, $70,950 for married taxpayers filing a joint return and surviving spouses, and $35,475 for married taxpayers filing a separate return and for estates and trusts.

Extend AMT relief for nonrefundable personal credits.—Under a temporary provision of prior law, taxpayers were permitted to offset both the regular tax and the AMT with nonrefundable personal tax credits, effective for taxable years beginning before January 1, 2009. This Act extended minimum tax relief for nonrefundable personal tax credits for one year, to apply to taxable years beginning before January 1, 2010. The extension does not apply to the child credit, the new saver's credit, the earned income tax credit (EITC), or the adoption credit, which were provided AMT relief through December 31, 2010 under the 2001 tax cut. The refundable portion of the child credit and the earned income tax credit are also allowed against the AMT through December 31, 2010. In addition, the extension does not apply to the residential energy efficient property credit or the new qualified plug-in electric drive motor vehicle credit, both of which are allowed against the AMT under prior law.

Provide making work pay tax credit.—A refundable tax credit equal to 6.2 percent of earned income, up to a maximum of $400 for working single taxpayers and $800 for working married taxpayers filing a joint return, was provided under this Act for taxable years 2009 and 2010. The credit is phased out at a rate of two percent for taxpayers with modified adjusted gross income (AGI) in excess of $75,000 ($150,000 for married taxpayers filing a joint return). Payments will be made to each possession of the United States with a mirror tax system (U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands) in an amount equal to the loss in receipts to that possession attributable to the credit provided in this Act. Payments will be made to each possession that does not have a mirror tax system (Puerto Rico and American Samoa) in an amount estimated by the Secretary of the Treasury as being equal to the aggregate credits that would have been allowed to residents of that possession if a mirror tax system had been in effect.

Increase the 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. Three separate credit schedules apply, depending on whether the eligible taxpayer has no, one, or more than one qualifying child. Under prior law, for taxable year 2009, taxpayers with more than one qualifying child were provided a credit of 40 percent on up to $12,570 in earnings, for a maximum credit of $5,028. The credit was reduced at the rate of 21.06 percent of earnings in excess of $16,420 for single taxpayers ($19,540 for married taxpayers filing a joint return). Effective for taxable years 2009 and 2010, this Act increased the credit percentage for families with three or more qualifying children to 45 percent, thereby creating a fourth credit schedule with a maximum credit of $5,656.50. This Act also provided marriage penalty relief to married couples filing a joint return (regardless of the number of qualifying children) by increasing the income thresholds for the phaseout of the EITC to $5,000 above the income thresholds for the phaseout for other taxpayers for 2009, and indexed this amount for 2010.

Increase refundable portion of the child tax credit.—Taxpayers are provided a nonrefundable tax credit of up to $1,000 for each qualifying child under the age of 17. The credit is reduced by $50 for each $1,000 (or fraction thereof) of modified AGI over $75,000 for single taxpayers ($110,000 for married taxpayers filing a joint return). If the credit exceeds the taxpayer's individual income tax liability, the taxpayer is eligible for a refundable credit (the additional child credit) equal to the lesser of: (1) 15 percent of earned income in excess of a threshold dollar amount ($12,550 for 2009), indexed annually for inflation; or (2) any child credit unclaimed due to insufficient tax liability. Taxpayers with three or more qualifying children may determine the additional child credit using an alternative formula. Under this Act, effective for taxable years 2009 and 2010, the refundable tax credit was increased by reducing the threshold dollar amount to $3,000.

Provide American opportunity tax credit.—Taxpayers are provided a nonrefundable tax credit of up to $1,800 (for 2009) per eligible student per year for qualified tuition and related expenses paid for the first two years of the student's post-secondary education in a degree or certificate program. Students must attend at least half time to be eligible for the credit. This credit, called the Hope Scholarship Credit, is equal to 100 percent of the first $1,200 in qualified tuition and related expenses and 50 percent of the next $1,200 of qualified tuition and related expenses for 2009; these amounts are indexed annually for inflation and rounded down to the next lowest multiple of $100. The credit is phased out ratably for single taxpayers with modified AGI between $50,000 and $60,000 ($100,000 and $120,000 for married taxpayers filing a joint return) for 2009. The income thresholds for these phase-out ranges are indexed annu-

ally for inflation, with the amount rounded down to the next lowest multiple of $1,000.

ARRA created the American opportunity tax credit to replace the Hope Scholarship Credit for taxable years 2009 and 2010. The new tax credit is partially refundable, has a higher maximum credit amount, is available for the first four years of postsecondary education, and has higher phase-out limits. Under the American opportunity tax credit, taxpayers are provided a credit of up to $2,500 per eligible student per year for qualified tuition and related expenses (expanded to include course materials) paid for each of the first four years of the student's post-secondary education in a degree or certification program. The credit is equal to 100 percent of the first $2,000 in qualified tuition and related expenses, and 25 percent of the next $2,000 of qualified tuition and related expenses. In addition, generally 40 percent 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).

Extend and modify the refundable tax credit for first-time homebuyers.—A temporary provision of prior law provided a refundable tax credit to first-time homebuyers who purchased a home on or after April 9, 2008 and before July 1, 2009, without regard to whether or not there was a binding contract to purchase prior to April 9, 2008. A first-time homebuyer is an individual who had no ownership interest in a principal residence in the United States during the three-year period prior to the purchase of the home to which the credit applies. The credit, which is equal to 10 percent of the purchase price of the home, up to a maximum credit of $7,500, is phased out for taxpayers with modified AGI between $75,000 and $95,000 ($150,000 and $170,000 for married taxpayers filing a joint return). Taxpayers receiving the credit must repay the amount received in equal installments over a 15-year period beginning two years after the purchase of the home. This Act extended the credit to apply to qualifying home purchases before December 1, 2009, waived the recapture of the credit for qualifying home purchases after December 31, 2008 and before December 1, 2009, and increased the maximum credit to $8,000.

Exclude a portion of unemployment compensation from taxation.—Unemployment compensation received under the laws of the United States or a State, is subject to individual income tax under current law. Under this Act, for taxable year 2009, a taxpayer may exclude up to $2,400 of such compensation from gross income for Federal individual income tax purposes.

Provide an additional deduction for taxes on the purchase of certain motor vehicles.—Taxpayers who itemize deductions are allowed to elect to deduct State and local general sales taxes in lieu of State and local income taxes. If a taxpayer itemizes deductions and elects to deduct State and local general sales taxes, the taxpayer may substantiate the sales taxes paid with receipts or may deduct an amount determined from Internal Revenue Service (IRS) tables plus the amount of general State and local sales taxes paid on the purchase of a motor vehicle, boat or certain other items. Taxpayers who claim the standard deduction or who itemize deductions and deduct State and local income taxes are not allowed to deduct State and local taxes paid on the purchase of a motor vehicle. Under this Act, taxpayers who claim the standard deduction or itemize deductions but elect to deduct State and local income taxes, instead of general sales taxes, are also allowed to deduct State and local sales or excise taxes paid or accrued on the purchase of a qualified motor vehicle after February 16, 2009 and before January 1, 2010. A qualified motor vehicle is a passenger automobile, light truck or motorcycle that has a gross vehicle weight rating of not more than 8,500 pounds, or a motor home acquired for use by the taxpayer, the original use of which commences with the taxpayer. The deduction is limited to the tax on up to $49,500 of the purchase price and is phased out for single taxpayers with modified AGI over $125,000 ($250,000 for married taxpayers filing a joint return).

Tax Incentives for Business

Extend temporary bonus depreciation for certain property.—Taxpayers are allowed to recover the cost of certain property used in a trade or business or for the production of income through annual depreciation deductions. The amount of the allowable depreciation deduction for a taxable year is generally determined under the modified accelerated cost recovery system (MACRS), which assigns applicable recovery periods and depreciation methods to different types of property. Under a temporary provision of prior law, an additional first-year depreciation deduction equal to 50 percent of the adjusted basis of the property was provided for qualifying property acquired and placed in service before January 1, 2009. Qualifying property included tangible property that had a recovery period not exceeding 20 years, purchased computer software, water utility property and qualified leasehold improvement property. A one-year extension of the placed-in-service date, through calendar year 2009, was provided for certain longer-lived property and certain transportation property. Corporations otherwise eligible for additional first-year depreciation were allowed to elect to claim additional research or AMT tax credits in lieu of the additional first-year depreciation deduction for qualified property placed in service after March 31, 2008 and before January 1, 2009. This Act extended the additional first-year depreciation deduction for one year, to apply to qualifying property acquired and placed in service in calendar year 2009 (through 2010 for certain longer-lived and transportation property). The election to claim additional research or AMT tax credits in lieu of the additional first-year depreciation was also extended for one year.

Extend temporary increase in expensing for small business.—Business taxpayers are allowed to expense up to $125,000 in annual investment expenditures for quali-

fying property (including off-the-shelf computer software) placed in service in taxable years beginning after 2006 and before 2011. The maximum amount that can be expensed is reduced by the amount by which the taxpayer's cost of qualifying property exceeds $500,000. Both the deduction and annual investment limit are indexed annually for inflation, effective for taxable years beginning after 2007 and before 2011. A temporary provision of prior law increased the expensing and annual investment limits to $250,000 and $800,000, respectively, effective for taxable years beginning in 2008. This Act extended the $250,000 expensing and $800,000 annual investment limits for one year, through taxable years beginning in 2009.

Allow five-year carryback of net operating losses (NOLs).—In general, an NOL may be carried back two years and carried forward 20 years to offset taxable income in such years. However, different rules apply with respect to NOLs arising in certain circumstances. This Act provided eligible small businesses (a business meeting a $15 million gross receipts test) the election to increase the carryback period for applicable NOLs from two years to any whole number of years elected by the taxpayer that is more than two and less than six. An applicable NOL is the taxpayer's NOL for any taxable year ending in 2008, or, if elected by the taxpayer, the NOL for any taxable year beginning in 2008. However, any election may be made only with respect to one taxable year.

Clarify and modify regulations related to limitations on certain built-in losses following an ownership change.—The extent to which a "loss corporation" may offset taxable income in taxable years after an "ownership change" by net operating losses, certain built-in losses, and deductions attributable to taxable years prior to the ownership change is limited under current law. This Act repealed prospectively a notice issued by the Department of the Treasury in 2008, which liberalized these rules with respect to an ownership change by a bank. This Act also provided an exception from the application of the limitation in the case of an ownership change that occurs after February 17, 2009, pursuant to a restructuring plan required under a loan agreement or commitment for a line of credit entered into with the Department of the Treasury under the Emergency Economic Stabilization Act of 2008.

Allow deferral of certain income from the discharge of indebtedness.—Gross income generally includes income realized by a debtor from the discharge of indebtedness, subject to certain exceptions. In cases involving discharges of indebtedness that are excluded from gross income under the exceptions to the general rule, taxpayers generally are required to reduce certain tax attributes by the amount of the discharge of indebtedness. The amount of discharge of indebtedness generally equals the excess of the adjusted issue price of the indebtedness being satisfied over the amount paid (or deemed paid) to satisfy such indebtedness. This rule generally applies to: (1) the acquisition by the debtor of its debt instrument in exchange for cash; (2) the issuance of a debt instrument by the debtor in satisfaction of its indebtedness, including a modification of indebtedness that is treated as an exchange (a debt-for-debt exchange); (3) the transfer by a debtor corporation of stock, or a debtor partnership of a capital or profits interest in such partnership, in satisfaction of its indebtedness (an equity-for-debt exchange); and (4) the acquisition by a debtor corporation of its indebtedness from a shareholder as a contribution to capital. This Act allowed a taxpayer to elect to defer the recognition of income from the cancellation of indebtedness associated with the "reacquisition" of "an applicable debt instrument" after December 31, 2008 and before January 1, 2011. Income deferred pursuant to the election must be included in the gross income of the taxpayer ratably in the five taxable years beginning with: (1) the fifth taxable year following the taxable year in which the repurchase occurs, for repurchases in 2009; and (2) the fourth taxable year following the taxable year in which the repurchase occurs, for repurchases in 2010.

Reduce capital gains taxation on small businesses.—Current law provides a 50-percent exclusion from tax for capital gains realized on the sale of certain small business stock held for more than five years. The amount of gain eligible for the exclusion is limited to the greater of $10 million or 10 times the taxpayer's basis in the stock. The exclusion is limited to individual investments and not the investments of a corporation. This Act increased the exclusion to 75 percent, effective for stock issued after February 17, 2009 and before January 1, 2011.

Modify other provisions regarding the taxation of businesses.—Other provisions in this Act affecting businesses: (1) modified the amount of estimated tax payments by small businesses for any taxable year beginning in 2009; (2) temporarily expanded the targeted groups eligible for the work opportunity tax credit to include unemployed veterans and disconnected youth who begin work in taxable years 2009 and 2010; (3) provided a temporary exemption from tax on built-in gains of S corporations recognized during taxable years 2009 and 2010 if the seventh taxable year of the recognition period preceded such taxable year; and (4) temporarily liberalized the eligibility requirements for tax-exempt small issue bonds for manufacturing facilities issued after February 17, 2009 and before January 1, 2011 to include certain high-technology facilities and certain functionally related and subordinate facilities.

Relief for State and Local Governments

Modify tax-exempt interest expense allocation rules for financial institutions.—Under current law, a deduction generally is not allowed for interest expenses incurred by a financial institution to purchase obligations the interest on which is exempt from tax. The amount of interest disallowed is an amount that bears the same ratio to such interest expense as the taxpayer's average adjusted bases of tax-exempt obligations acquired after

August 7, 1986 bears to the average adjusted bases for all assets of the taxpayer. This rule does not apply to "qualified tax-exempt obligations;" instead, only 20 percent of the interest expense allocable to "qualified tax-exempt obligations" is disallowed. A "qualified tax-exempt obligation" is a tax-exempt obligation that: (1) is issued after August 7, 1986 by a qualified small issuer (one that reasonably anticipates that the amount of tax-exempt obligations that it will issue during the year will be $10 million or less); (2) is not a private activity bond; and (3) is designated by the issuer as qualifying for the exception from the general rule. However, the amount allowable as a deduction with respect to any financial institution preference item is reduced by 20 percent. Financial institution preference items include interest on debt to carry tax-exempt obligations acquired after December 31, 1982 and before August 8, 1986; because qualified tax-exempt obligations are treated as if they were acquired on August 7, 1986 under current law, the amount allowable as a deduction by a financial institution with respect to interest incurred to carry a qualified tax-exempt obligation is reduced by 20 percent. Effective for tax-exempt obligations issued after December 31, 2008 and before January 1, 2011, and held by a financial institution, this Act provided that: (1) such obligations held in an amount not to exceed two percent of the adjusted basis of the financial institution's assets would not be taken into account for purposes of determining the portion of the financial institution's interest expenses subject to the pro rata interest disallowance rule; (2) such obligations would be treated as preference items, thereby reducing the amount allowable as a deduction with respect to interest incurred to carry such obligations by 20 percent; and (3) the annual limit for qualified small issuers would be increased from $10 million to $30 million.

Authorize the issuance of qualified school construction bonds.—This Act created a new category of taxable tax credit bonds, called qualified school construction bonds, which provide a Federal subsidy through tax credits to investors in an amount equal to 100 percent of the interest on eligible bonds. All of the proceeds from the issuance of such bonds must be used for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a bond-financed facility is to be constructed. Up to $11 billion in qualified school construction bonds may be issued in each year, 2009 and 2010.

Extend and expand the issuance of qualified zone academy bonds.—Under prior law, State and local governments were allowed to issue taxable tax credit bonds, called qualified zone academy bonds, which provided a Federal subsidy through tax credits to investors in an amount equal to 100 percent of the interest on the bonds. This authorization was for $400 million in each calendar year, 1998 through 2009. At least 95 percent of the proceeds of such bonds were required to be used for teacher and other personnel training, purchases of equipment, curriculum development, or renovations and repairs at a qualified zone academy. This Act provided that an additional $1.4 billion in qualified zone academy bonds could be issued in each of calendar year 2009 and 2010.

Authorize the issuance of build America bonds.— This Act allowed State and local governments to issue two types of taxable tax credit bonds in 2009 and 2010, called build America bonds, with Federal subsidies for a portion of the borrowing costs. One type of build America bond provides a Federal tax credit to investors equal to 35 percent of the interest payable by the issuer of the bond (net of the tax credit), which represents a Federal subsidy of approximately 25 percent of the total borrowing cost. This type of build America bond may be issued for any purpose for which governmental tax-exempt bonds (excluding private activity bonds) can be issued under current law. The credit, which is included in gross income, is allowed against the regular tax and the AMT. Unused credits may be carried forward to succeeding taxable years. A second type of build America bond provides a refundable credit or direct payment from the Department of the Treasury to eligible State or local government issuers equal to 35 percent of the total interest payable to investors on eligible taxable bonds. This second type of build America bond may be used to finance only capital expenditures.

Authorize the issuance of recovery zone economic development bonds and recovery zone facility bonds.—This Act allowed State and local governments to issue recovery zone economic development bonds and recovery zone facility bonds, which are two new types of tax-preferred bonds. Recovery zone economic development bonds are a modified type of taxable build America bond that are eligible for a deeper Federal subsidy in the form of a refundable credit or direct payment to State and local government issuers in an amount equal to 45 percent of the interest payable on the bond. Recovery zone facility bonds are a modified type of tax-exempt private activity bond. Nationwide, up to $10 billion of recovery zone economic development bonds and up to $15 billion of recovery zone facility bonds may be issued in 2009 and 2010. This total authorization is allocated among States and localities based on relative declines in employment. The proceeds of recovery zone economic development bonds must be used for purposes of promoting development or other economic activity in a recovery zone, including capital expenditures paid or incurred with respect to property located in such zones and expenditures for public infrastructure and construction of public facilities located in such zones. At least 95 percent of the proceeds of recovery zone facility bonds must be used for specific types of recovery zone property. Areas designated by the issuer as recovery zones must have significant poverty, unemployment, general distress, or home foreclosures; be any area for which a designation as an empowerment zone or renewal community is in effect; or be economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990.

Modify the new markets tax credit.—The new markets tax credit is provided for qualified equity investments made to acquire stock in a corporation or a capital interest in a partnership that is a qualified community development entity. A credit of five percent is provided to the investor for the first three years of investment. The credit increases to six percent for the next four years. Under prior law, the maximum amount of annual qualifying equity investment is capped at $2.0 billion for calendar years 2004 and 2005, and $3.5 billion for calendar years 2006 through 2009. This Act increased the cap on annual qualifying investment to $5 billion for 2008 and 2009.

Provide other relief for State and local governments.—This Act also: (1) provided that tax-exempt interest on certain private activity bonds issued in 2009 and 2010 is not an item of tax preference for purposes of the AMT; (2) modified the speed requirement for high-speed intercity rail facility bonds; (3) allowed Indian tribal governments to issue $2 billion in tribal economic development bonds; (4) provided procedures for the pass-through of credits on tax credit bonds held by regulated investment companies; and (5) delayed for one year the withholding of tax on certain payments to government contractors.

Energy Incentives

Extend the tax credit for energy produced from certain renewable sources.—Taxpayers are allowed a tax credit for electricity produced from wind, closed-loop biomass, open-loop biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, qualified hydropower, and marine and hydrokinetic renewable energy at qualified facilities (the renewable electricity production credit). The credit rate is 1.5 cents per kilowatt hour for electricity produced from wind, closed-loop biomass, geothermal, and solar power, and 0.75 cents per kilowatt hour for electricity produced from open-loop biomass, small irrigation power, municipal solid waste, and qualified hydropower (both rates are adjusted for inflation since 1992). To qualify for the credit, electricity generally must be produced at qualified facilities placed in service by a specific date and must be sold by the taxpayer to an unrelated person. This Act extended the placed-in-service date for: (1) qualified facilities producing electricity from closed-loop biomass, open-loop biomass, geothermal energy, municipal solid waste, and qualified hydropower for three years through December 31, 2013; (2) qualified wind facilities for three years through December 31, 2012; and (3) qualified marine and hydrokinetic renewable energy facilities for two years through December 31, 2013.

Modify business energy credit.—A nonrefundable tax credit is allowed for certain qualifying energy property placed in service by a taxpayer (the energy credit). Qualifying energy property includes solar energy property, fuel cell power plants, microturbines, geothermal power production property, geothermal heat pump property, small wind energy property and combined heat and power system property. Depending on the type of property placed in service, the credit rate may be 10 or 30 percent of the property's basis, and the credit may be limited by an annual cap. This Act repealed a prior law rule that reduced the basis of property for purposes of the credit computation when the property was financed by subsidized energy financing or with proceeds from private activity bonds. This Act also eliminated the prior law rule limiting the credit with respect to small wind energy property to $4,000 per year.

This Act also allowed taxpayers to elect to treat certain qualified facilities as qualifying energy property eligible for a credit equal to 30 percent of the property's basis. The facilities eligible for this treatment are facilities that would otherwise qualify for the tax credit for electricity produced from wind, closed-loop biomass, open-loop biomass, geothermal energy, small irrigation power, municipal solid waste, qualified hydropower, and marine and hydrokinetic renewable energy. A taxpayer making the election with respect to a facility may not claim the renewable electricity production credit for electricity produced at the facility. This Act also allowed taxpayers to elect to receive a grant from the Department of the Treasury in lieu of the energy credit or the renewable electricity production credit for these facilities and for other qualifying energy property. The election and grants are available for renewable power facilities placed in service in 2009 and 2010 and are also available if construction began during 2009 and 2010 for wind facilities placed in service before 2013 and other renewable power facilities placed in service before 2014. Grants are available for qualifying energy property other than renewable power facilities if the property is placed in service during 2009 or 2010, or if construction began during 2009 or 2010 and the property is placed in service before 2017.

Extend and modify the credit for nonbusiness energy property.—Under prior law, a nonrefundable 10-percent credit was provided for the purchase of qualified energy efficiency improvements (insulation, exterior windows and doors, roofs) to existing homes located in the United States and owned and used by the taxpayer as the taxpayer's principal residence. Specified credits also were provided: (1) $50 for each qualified advanced main air circulating fan; (2) $150 for each qualified natural gas, propane, or oil furnace or hot water boiler; and (3) $300 for each item of qualified energy efficient property (any of the following meeting specified standards: an electric heat pump; an electric heat pump water heater; a central air conditioner; a natural gas, propane, or oil water heater; and biomass fuel property). These credits, which applied to expenditures after December 31, 2008, for property placed in service after December 31, 2008 and before January 1, 2010, were subject to an aggregate lifetime cap of $500 for each taxpayer with respect to a specific dwelling; no more than $200 of the credits could be attributable to expenditures on windows. This Act: (1) increased the credit rate to 30 percent and extended it to apply to the energy property otherwise eligible for the $50, $150 and $300 credits of prior law; (2) extended the

credits for one year, to apply to property purchased and placed in service prior to January 1, 2011; (3) replaced the $500 lifetime cap ($200 for windows) with an aggregate cap of $1,500 for property placed in service during the period 2009 through 2010; (4) modified the efficiency standards for qualifying property; and (5) eliminated the rule that reduced the credit for property purchased with subsidized energy financing.

Modify credits for alternative fuel and plug-in electric drive motor vehicles.—A tax credit (the alternative motor vehicle credit) is provided for each new qualified fuel cell, hybrid, advanced lean burn technology and alternative fuel vehicle placed in service by the taxpayer. The credit varies depending on the weight class of the vehicle, the type of technology used, the amount by which the vehicle exceeds fuel economy standards, and, in some cases, the estimated lifetime fuel savings of the vehicle. The credit is available for vehicles purchased after 2005 and, under prior law, was scheduled to expire after 2009, 2010 or 2014, depending on the type of vehicle. In addition, the credit for hybrid and advanced lean burn technology vehicles phases out with respect to a manufacturer's vehicles after the manufacturer has sold at least 60,000 of those vehicles.

A credit also is available for each qualified plug-in electric drive motor vehicle (a vehicle that has at least four wheels, is manufactured for use on public roads, meets certain emissions standards, draws propulsion using a traction battery with at least four kilowatt-hours of capacity, and is capable of being recharged from an external source of electricity) placed in service. Under prior law, the base amount of the credit for plug-in electric drive motor vehicles was $2,500, plus $417 for each kilowatt-hour of battery capacity in excess of four kilowatt-hours. The maximum credit varied by weight of the vehicle, ranging from $7,500 for a vehicle weighing less than 10,000 pounds to $15,000 for a vehicle weighing more than 26,000 pounds. Under prior law, the credit was scheduled to phase out over the four calendar quarters beginning in the second quarter following the quarter in which a total of 250,000 credit-eligible vehicles were sold for use in the United States; in addition, the credit was not available for purchases after December 31, 2014.

This Act modified the alternative motor vehicle credit by making it a personal credit allowed against the AMT, effective for taxable years beginning after December 31, 2008. This Act also made the following modifications to the plug-in electric drive motor vehicle credit, effective for vehicles acquired after December 31, 2009: (1) the credit was capped at $7,500 per vehicle, regardless of the weight of the vehicle; (2) the credit was eliminated for low-speed vehicles and vehicles weighting 14,000 pounds or more; and (3) the prior law phaseout after the sale of 250,000 credit-eligible vehicles was replaced with separate phaseouts for each manufacturer; with the phaseout for each manufacturer's vehicles beginning after the sale of 200,000 of the manufacturer's credit-eligible vehicles. In addition, this Act provided: (1) a new 10-percent credit capped at $2,500 per vehicle for low-speed vehicles, motorcycles, and three-wheeled vehicles purchased after February 17, 2009 and before January 1, 2012; and (2) a new 10-percent credit capped at $4,000 per vehicle for the cost of converting any motor vehicle into a qualified plug-in electric drive motor vehicle that is placed in service after February 17, 2009 and before January 1, 2012.

Provide a credit for investment in qualified property used in a qualified advanced energy manufacturing project.—This Act provided a 30-percent credit for investment in qualified property used in a qualified advanced energy manufacturing project. A qualified advanced energy manufacturing project re-equips, expands, or establishes a manufacturing facility for the production of: (1) property designed to be used to produce energy from the sun, wind, geothermal deposits, or other renewable resources; (2) fuel cells, microturbines, or an energy storage system for use with electric or hybrid-electric motor vehicles; (3) electric grids to support the transmission of intermittent sources of renewable energy, including the storage of such energy; (4) property designed to capture and sequester carbon dioxide; (5) property designed to refine or blend renewable fuels (excluding fossil fuels) or to produce energy conservation technologies; or (6) other advanced energy property designed to reduce greenhouse gas emissions as may be determined by the Secretary of the Treasury. Qualified property must be depreciable (or amortizable) property used in a qualified advanced energy project and does not include property designed to manufacture equipment for use in the refining or blending of any transportation fuel other than renewable fuels. The credit is available only for projects certified by the Secretary of the Treasury (in consultation with the Secretary of Energy). The total amount of credits certified by the Secretary of the Treasury may not exceed $2.3 billion. The Secretary of the Treasury is required to establish a certification program no later than 180 days after February 17, 2009.

Provide other incentives for energy.—This Act also: (1) removed the prior law caps on the credit for the purchase of residential solar hot water, geothermal, and wind property and eliminated the reduction in credits for property using subsidized energy financing; (2) temporarily increased the rate for the credit for alternative fuel vehicle refueling property to 50 percent (except for hydrogen refueling property) and increased the maximum credit per taxable year per location to $50,000 for qualified business property ($200,000 for qualified hydrogen refueling property) and to $2,000 for nonbusiness property; and (3) equalized tax-free transit and parking benefits through 2010, setting both at $230 in 2009.

This Act also authorized the issuance of: (1) an additional $1.6 billion of taxable tax credit bonds, called new clean renewable energy bonds, which are used to finance qualified renewable energy facilities; and (2) an additional $2.4 billion of taxable tax credit bonds, called qualified energy conservation bonds, which are used to finance qualified energy conservation purposes and, as clarified by this Act, may be used to make loans and grants for

capital expenditures to implement green community programs. Both types of bonds provide a Federal subsidy through tax credits to investors equal to 70 percent of the interest on the bond.

Other Provisions

Provide assistance for COBRA continuation coverage.—Under current law, certain group health plans are required to offer qualified beneficiaries the opportunity to continue to participate in the group heath plan for a specified period of time after the occurrence of certain events that otherwise would have terminated such participation. Qualified beneficiaries may be required to pay a premium for continuation coverage. The continuation coverage rules, which were enacted in the Consolidated Omnibus Budget Reconciliation Act of 1985, are often referred to as "COBRA." Under this Act, qualified beneficiaries electing COBRA continuation coverage as a result of an involuntary termination occurring on or after September 1, 2008 and before January 1, 2010 are provided a premium subsidy for up to 9 months of COBRA continuation coverage. The subsidy is 65 percent of the premium for a period of coverage; the qualified beneficiary electing COBRA continuation coverage is responsible for the remaining 35 percent. Single taxpayers with modified AGI in excess of $145,000 ($290,000 for married taxpayers filing a joint return) do not qualify for the subsidy. A special 60-day election period is provided to individuals who did not have a COBRA election in effect as of February 17, 2008, but would otherwise be eligible for the premium subsidy. The entity to which premiums are payable is reimbursed by the amount of the premium for COBRA continuation coverage that is not paid on account of the premium subsidy. These entities will treat the reimbursement as a credit against the employee income tax withholding and the employee and employer social security tax liability otherwise deposited in the Treasury. To the extent that the amount of the reimbursement exceeds the amount of the entity's liability for these taxes, the entity will be reimbursed directly by the Treasury. Transfers of social security tax liability to the social security trust funds will not be affected by the credits.

FEDERAL AVIATION ADMINISTRATION EXTENSION ACT OF 2009

This Act, which was signed into law by President Obama on March 30, 2009, extended the authority to collect taxes that fund the Airport and Airway Trust Fund through September 30, 2009. These taxes had been scheduled to expire after March 31, 2009 under prior law.

LEGISLATION ENACTED IN 2008 THAT AFFECTS GOVERNMENTAL RECEIPTS

A number of laws were enacted in 2008 that affect governmental receipts, beginning with the Economic Stimulus Act of 2008, which was signed on February 13, 2008, and ending with the Worker, Retiree, and Employer Recovery Act of 2008, which was signed on December 23, 2008. The major legislative changes enacted in 2008 that affect governmental receipts are described below.

ECONOMIC STIMULUS ACT OF 2008

Provide recovery payments for individuals.—Eligible individuals were provided a basic credit equal to the greater of: (1) net individual income tax liability, up to a maximum of $600 for single taxpayers and $1,200 for married couples filing a joint return; or (2) $300 for a single individual and $600 for a married couple. To be eligible for the basic credit, an individual was required to have: (1) net income tax liability of at least $1 and AGI greater than the sum of the basic standard deduction plus the exemption amount (twice the exemption amount in the case of a joint return); or (2) qualifying income of at least $3,000, defined as the sum of earned income, social security benefits, and veterans' disability and death benefits. Eligible individuals were allowed an additional $300 credit for each qualifying child under the age of 17. The amount of the credit received by a taxpayer (the basic credit plus the child credit) was reduced by five percent of the amount of the taxpayer's AGI in excess of $75,000 ($150,000 for joint returns). An eligible individual was anyone other than a nonresident alien, a dependent or an estate or trust. The credit, which was refundable, was computed based on tax returns filed for taxable year 2007 and was provided to individuals in the form of a check issued by the Department of the Treasury between April and December 2008. Payments also were made to each possession of the United States with a mirror tax system (U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands) in an amount equal to the loss in receipts to that possession attributable to the recovery payments provided in this Act. Payments were made to each possession that does not have a mirror tax system (Puerto Rico and American Samoa) in an amount estimated by the Department of the Treasury as being equal to the aggregate recovery payments that would have been allowed to residents of that possession if a mirror tax code system had been in effect.

Provide temporary increase in expensing for small business.—Business taxpayers are allowed to expense up to $125,000 in annual investment expenditures for qualifying property (including off-the-shelf computer software) placed in service in taxable years beginning after 2006 and before 2011. The maximum amount that can be expensed is reduced by the amount by which the taxpayer's cost of qualifying property exceeds $500,000. Both the deduction and annual investment limit are indexed annually for inflation, effective for taxable years beginning after 2007 and before 2011. This Act temporar-

ily increased the expensing and annual investment limits to $250,000 and $800,000, respectively, effective for taxable years beginning in 2008.

Provide temporary bonus depreciation for certain property.—Taxpayers are allowed to recover the cost of certain property used in a trade or business or for the production of income through annual depreciation deductions. The amount of the allowable depreciation deduction for a taxable year is generally determined under MACRS, which assigns applicable recovery periods and depreciation methods to different types of property. Effective for qualifying property acquired and placed in service in calendar year 2008, this Act allowed an additional first-year depreciation deduction equal to 50 percent of the adjusted basis of the property. Qualifying property included tangible property that had a recovery period not exceeding 20 years, purchased computer software, water utility property and qualified leasehold improvement property.

AIRPORT AND AIRWAY EXTENSION ACT OF 2008

This Act extended the authority to collect taxes that fund the Airport and Airway Trust Fund through June 30, 2008. These taxes had been scheduled to expire after February 29, 2008 under prior law.

ANDEAN TRADE PREFERENCE EXTENSION ACT OF 2008

The Andean Trade Preference Act (ATPA), which was scheduled to expire after February 29, 2008, was designed to provide economic alternatives for Bolivia, Columbia, Ecuador, and Peru in their fight against narcotics production and trafficking. This Act extended the provisions of the ATPA for ten months, through December 31, 2008. This Act also increased the estimated tax payments due in July through September of 2013 by corporations with assets of at least $1 billion to 101 percent of the amount otherwise due. For corporations affected by this provision, the next required estimated tax payment is reduced accordingly.

HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2008

Tax Benefits for the Military, Veterans and Others

Permanently extend the qualified mortgage revenue bond (MRB) first-time homebuyer exception for veterans.—State and local governments may issue tax-exempt MRBs to provide low-interest rate financing to qualified individuals for the purchase, improvement, or rehabilitation of owner-occupied residences. Several restrictions, including purchase price limitations, mortgagor income, and the first-time homebuyer requirement apply to the financing of mortgages with MRBs. Under prior law, effective for bonds issued after December 20, 2006 and before January 1, 2008, the first-time homebuyer requirement was waived with respect to financing for veterans who served in the active military. This Act permanently extended the exception to the first-time homebuyer requirement for MRBs for veterans.

Modify veterans' mortgage bond volume limitation and eligibility rules for certain States.—Tax-exempt qualified veterans' mortgage bonds provide low interest rate mortgage loan financing to certain veterans in five States. The five States eligible to issue such bonds are Alaska, Oregon, Wisconsin, Texas and California. Under prior law, mortgage bonds issued by Texas and California were restricted to loans made to veterans who had served on active duty before 1977 and who had applied for the financing before the date 30 years after their last day of active service. In addition, the annual volume of qualified veterans' mortgage bonds that could be issued in California or Texas was based on the average amount of bonds issued in the respective State between 1979 and 1984. Such bonds issued by Oregon, Alaska and Wisconsin under prior law were restricted to loans to veterans who applied for financing before the date 25 years after their last day of active service. In addition, after 2009, these three States were each subject to a $25 million annual volume limit on the issuance of such bonds. This Act increased the annual limit on qualified veterans' mortgage bonds that can be issued in Alaska, Oregon and Wisconsin after 2009 to $100 million. In addition, with regard to Texas and California, this Act repealed the pre-1977 service requirement and reduced the eligibility period to 25 years after the last day of active service.

Provide other benefits.—Other provisions of this Act: (1) clarified the rules for members of the active military regarding valid identification numbers for purposes of eligibility for the recovery payments provided in the Economic Stimulus Act of 2008; (2) made permanent the election to treat combat pay as earned income for purposes of the earned income tax credit; (3) treated differential wages paid by an employer to an employee called up to active military duty as wages for withholding, permitted benefits for individuals on active military duty under certain retirement plans to be based on differential wages, and permitted certain retirement plans to make distributions to individuals on active duty and receiving differential pay; (4) made permanent the rules applicable to distributions from a qualified retirement plan to reservists ordered or called to active duty for at least 180 days; (5) allowed recipients of military death benefits to rollover (within certain time limits) the amounts received, tax free, to a Roth IRA or an education savings account; (6) required certain retirement plans to provide survivors of deceased individuals serving in the military with death benefits (not including benefit accruals) as if the individuals had returned to pre-military service before death: (7) permitted certain retirement plans to provide benefit accruals on behalf of disabled or deceased individuals serving in the military as if the individuals had returned to pre-military service before death; (8) created an election to suspend the application of the five-

year requirement for the exclusion of gain on the sale of a principal residence by a Peace Corps volunteer; (9) provided a tax credit for small employers with respect to differential wage payments to employees who are on active military duty; (10) clarified the exclusion from gross income of State payments to service members; (11) made permanent the special provision relating to exclusion of gain from the sale of a principal residence by certain employees of the intelligence community; (12) permitted members of the reserves called to active duty to withdraw amounts held in a health flexible spending arrangement without penalty; (13) modified the rules regarding contributions of military death gratuities to tax-favored accounts; and (14) clarified that certain property tax rebates and other benefits made with respect to volunteer firefighters and excluded from gross income are not subject to unemployment taxes or social security and Medicare payroll taxes.

Offsets

Modify the taxation of U.S. citizens and permanent residents who relinquish their citizenship or residency.—Under this Act, individuals who meet an income tax liability or net worth test and who lose U.S. citizenship or terminate long-term residency on or after June 17, 2008, generally would be treated as if they sold all of their property for its fair market value on the day before the loss of citizenship or termination of residency. Any loss from the deemed sale generally would be taken into account to the extent otherwise provided in the Internal Revenue Code and any net gain on the deemed sale would be recognized to the extent it exceeded $600,000, indexed annually after 2008. This mark-to-market tax treatment would apply to most types of property interest held by the individual, with certain exceptions. This Act also imposed a transfer tax on certain transfers to U.S. persons from certain U.S. citizens who relinquished their U.S. citizenship and certain long-term U.S. residents who terminated their U.S. residency, or from their estates.

Require some U.S.-based contractors to pay employment taxes on certain employees of their foreign subsidiaries.—Effective for services performed in calendar months beginning more than 30 days after June 17, 2008, foreign subsidiaries of parent U.S. corporations performing services under a contract with the U.S. government (or any instrumentality thereof) would be treated as American employers for employment tax purposes. The parent U.S. corporation would be jointly liable for the employment taxes imposed on the foreign subsidiary, as well as any penalties with respect to failure to pay the tax or to file any return or statement with respect to such tax.

Increase the penalty for failure to file an income tax return.—Effective for returns required to be filed after December 31, 2008, this Act increased the minimum penalty for failure to file a tax return within 60 days of the due date to the lesser of $135 or 100 percent of the amount of tax required to be shown on the return.

FOOD, CONSERVATION, AND ENERGY ACT OF 2008

Conservation Provisions

Modify treatment of certain conservation reserve program payments for payroll tax purposes.—Net earnings from self-employment generally are subject to social security and Medicare payroll taxes under the Self-Employment Contributions Act (SECA). This Act excluded conservation reserve program payments to individuals receiving social security retirement or disability benefits from self-employment income for purposes of SECA payroll taxes, effective for such payments received after December 31, 2007.

Extend increased limits on contributions of partial interests in real property for conservation purposes.—In general, a deduction is permitted for charitable contributions, subject to certain limitations that depend on the type of taxpayer, the property contributed, and the donee organization. Exceptions to these general rules are provided for certain types of contributions, including qualified conservation contributions. The special rules for qualified conservation contributions were enhanced under the Pension Protection Act of 2006, applicable for qualified conservation contributions made in taxable years beginning after December 31, 2005 and before January 1, 2008. These special rules: (1) increased the cap on deductions for qualified conservation contributions from 30 percent to 50 percent of the excess of the donor's contribution base over the amount of all other allowable charitable contributions; (2) increased the cap on deductions for qualified conservation contributions applicable to qualified ranchers and farmers to 100 percent of the excess of the donor's contribution base over the amount of all other allowable charitable contributions in the case of individuals and to 100 percent of the excess of taxable income over the amount of all other allowable charitable contributions in the case of corporations; and (3) increased the number of years qualified conservation contributions in excess of the 50- and 100-percent caps may be carried forward from five to 15 years. This Act extended these special rules, applicable for qualified conservation contributions made in taxable years beginning before January 1, 2010.

Provide deduction for endangered species recovery expenditures.—A taxpayer engaged in the business of farming may deduct expenses for soil or water conservation or for the prevention of erosion of land used in farming. For any given taxable year, such deductions may not exceed 25 percent of the gross income derived from farming; any excess above such percentage is deductible in succeeding taxable years. This Act expanded the deduction to apply to the costs incurred to implement site-specific management measures included in species recovery plans approved pursuant to the Endangered Species Act of 1973, effective for such costs incurred after December 31, 2008.

Modify taxation of qualified timber gains.—A taxpayer may elect to treat gains on the sale or exchange of cut standing timber as capital gains. The fair market value of the timber on the first day of the taxable year in which the timber is cut is used to determine the gain attributable to such cutting. This Act provided an alternative maximum tax rate of 15 percent for gain on the sale or exchange of timber held for at least 15 years. This alternative rate, which applies to both the regular tax and the alternative minimum tax, is effective for taxable years ending after June 18, 2008 and beginning on or before June 18, 2009. This Act also modified and clarified the rules regarding the taxation of timber property sales by timber real estate investment trusts (timber REITs).

Establish qualified forestry conservation bonds.—This Act provided for the issuance of up to $500 million in new taxable tax credit bonds, called qualified forestry conservation bonds, with Federal subsidies through special refundable tax credits to finance qualified forestry conservation projects.

Energy Provisions

Provide a tax credit for the production of cellulosic biofuels.—This Act created a nonrefundable income tax credit for qualified cellulosic biofuel produced after December 31, 2008. Cellulosic biofuel is any liquid fuel that is produced in the United States and used as fuel in the United States, is derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, and meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency. The credit is $1.01 per gallon, reduced as follows: (1) in the case of cellulosic biofuel that is alcohol, by the credit amount applicable for such alcohol under the alcohol mixture credit in effect at the time cellulosic biofuel is produced; and (2) in the case of cellulosic biofuel that is ethanol produced by a small producer, by the credit amount for small ethanol producers in effect at the time the cellulosic biofuel is produced.

Modify incentives related to the production of alcohol fuels.—Under prior law, taxpayers were provided an income tax credit of 51 cents per gallon of ethanol (60 cents in the case of alcohol other than ethanol) used in the production of a qualified mixture of alcohol and gasoline (or of alcohol and a special fuel) that was either sold by the taxpayer as fuel or used by the taxpayer producing the mixture. This Act reduced the credit for ethanol to 45 cents per gallon beginning in calendar year 2009, unless it is determined that the amount of ethanol (including cellulosic ethanol) produced in or imported into the United States in 2008 was less than 7.5 billion gallons. If that production level is not reached in 2008, the reduction in the credit would be delayed until the calendar year following the calendar year in which production reaches 7.5 billion gallons.

Modify the calculation of the volume of alcohol for purposes of the alcohol fuels credits.—Under prior law, for purposes of determining the number of gallons of alcohol eligible for alcohol fuel credits, the volume of alcohol included any denaturant, including gasoline, but denaturants were not permitted to exceed five percent of the volume of the alcohol (including denaturants). This Act reduced the amount of allowable denaturant to two percent of the volume of alcohol, effective for fuel sold or used after December 31, 2008.

Extend the tariff on imported ethyl alcohol.—This Act extended the 14.27-cents-per-liter (approximately 54-cents-per-gallon) tariff on imports of ethyl alcohol, and any mixture containing ethyl alcohol, if used as a fuel or in producing a mixture to be used as a fuel, to apply to such imports entering the United States before January 1, 2011. Under prior law the tariff had been scheduled to expire with respect to such imports entering the United States after December 31, 2009.

Agriculture Provisions

Modify depreciation of certain race horses.—Under prior law, race horses that were two years old or younger at the time they were placed in service were depreciated over a seven-year recovery period; race horses that were more than two years old at the time they were placed in service were depreciated over a three-year recovery period. This Act reduced the recovery period for race horses two years old or younger at the time they were placed in service to three years, effective for such horses placed in service after December 31, 2008 and before January 1, 2014.

Limit farming losses of certain taxpayers.—Taxpayers who materially participate in a farming activity may report net farming losses in full as a reduction to income from both passive and nonpassive sources. Taxpayers who do not materially participate in a farming activity are limited in their ability to use such losses to reduce income from nonpassive sources. This Act limited the farming losses of a taxpayer (other than a C corporation) receiving any direct or counter-cyclical payments under Title I of the Food, Conservation, and Energy Act of 2008 (or any payment elected in lieu of any such payment), or any Commodity Credit Corporation (CCC) loan. Specifically, for any taxable year beginning after December 31, 2009, in which any applicable subsides are received, the loss will be limited to the greater of $300,000 or the taxpayer's total net farm income from the prior five taxable years. Net farm income is the aggregation of all income and loss from farming businesses for the prior five taxable years. Losses that are limited in a particular year may be carried forward to subsequent years. In addition, losses resulting from disease or drought, or from a fire, storm, or other casualty, are disregarded for purposes of calculating the limitation.

Trade Provisions

Extend Caribbean Basin Initiative (CBI).—The trade programs known collectively as the CBI, which are intended to facilitate the economic development and export diversification of the Caribbean Basin economies, provide 19 beneficiary countries with duty-free access to the U.S. market for most goods. This Act extended the CBI, which had been scheduled to expire on September 30, 2008, through September 30, 2010.

Other Provisions

Provide temporary tax relief for Kiowa County, Kansas and the surrounding area (the Kansas Disaster Zone).—This Act provided temporary tax relief to taxpayers who incurred casualty losses attributable to storms and tornados in Kiowa County, Kansas and the surrounding area by: (1) suspending certain limitations on personal casualty losses; (2) extending the replacement period for nonrecognition of gain; (3) providing a retention credit to employers; (4) providing an additional first-year depreciation deduction for qualified recovery assistance property; (5) increasing expensing for small businesses; (6) allowing expensing of certain demolition and clean-up costs; (7) modifying the treatment of public utility property disaster losses; (8) modifying the treatment of net operating losses attributable to storm losses; (9) modifying requirements with regard to income representations of prospective tenants for purposes of determining eligibility for qualified residential rental projects; and (10) providing exceptions to certain rules regarding distributions from retirement plans.

Modify methods for determining net income from self-employment.—Net earnings from self-employment are subject to social security and Medicare payroll taxes. A self-employed individual may elect to use the generally applicable rule to determine net earnings from self-employment or one of two optional methods: the farm optional method or the nonfarm optional method. Effective for taxable years beginning after December 31, 2007, this Act modified the farm optional method and the nonfarm optional method so that electing taxpayers would be eligible for four credits of social security benefit coverage each taxable year.

Modify the timing of estimated tax payments by corporations.—Corporations generally are required to pay their income tax liability in quarterly estimated payments. For corporations that keep their accounts on a calendar year basis, these payments are due on or before April 15, June 15, September 15, and December 15. If these dates fall on a holiday or weekend, payment is due on the next business day. This Act increased the estimated tax payments due in July through September of 2012 by corporations with assets of at least $1 billion to 125 percent of the amount otherwise due. For corporations affected by this provision, the next required estimated tax payment is reduced accordingly.

FEDERAL AVIATION ADMINISTRATION EXTENSION ACT OF 2008

This Act extended the authority to collect taxes that fund the Airport and Airway Trust Fund through September 30, 2008. These taxes had been scheduled to expire after June 30, 2008, under prior law.

RENEWAL OF IMPORT RESTRICTIONS ON BURMA

This Act extended for one year, through July 28, 2009, the ban on all imports from Burma. This Act also increased the estimated tax payments due in July through September by corporations with assets of at least $1 billion to 101.25 percent of the amount otherwise due in 2013. For corporations affected by this provision, the next required estimated tax payment is reduced accordingly.

TOM LANTOS BLOCK BURMESE JADE (JUNTA'S ANTI-DEMOCRATIC EFFORTS) ACT OF 2008

This Act expanded existing financial and diplomatic restrictions against government officials from Burma and placed import sanctions on gemstones mined or extracted from Burma and on jewelry containing such gemstones.

HOUSING AND ECONOMIC RECOVERY ACT OF 2008

Housing-Related Provisions

Provide a refundable tax credit to first-time homebuyers.—A refundable tax credit was provided to first-time homebuyers who purchased a home on or after April 9, 2008 and before July 1, 2009, without regard to whether or not there was a binding contract to purchase prior to April 9, 2008. The credit, which is equal to 10 percent of the purchase price of the home, up to a maximum credit of $7,500, is phased out for taxpayers with modified AGI between $75,000 and $95,000 ($150,000 and $170,000 for married taxpayers filing a joint return). Taxpayers receiving the credit must repay the amount received in equal installments over a 15-year period beginning two years after the purchase of the home.

Provide an above-the-line deduction for State and local real property taxes.—A taxpayer's taxable income is computed by reducing AGI either by a standard deduction or, if the taxpayer elects, by the taxpayer's itemized deductions. An above-the-line deduction of up to $500 ($1,000 for married taxpayers filing a joint return) for State and local real property taxes was provided to homeowners who do not itemize their Federal tax deductions. The deduction is effective for taxable years beginning after December 31, 2007 and before January 1, 2009.

Modify the low-income housing credit.—A low-income housing credit is provided to owners of qualified

low-income rental units under current law. The credit may be claimed over a 10-year period for a portion of the cost of rental housing occupied by tenants having incomes below specified levels. The credit percentage for newly constructed or substantially rehabilitated housing that is not federally subsidized is adjusted monthly by the IRS so that the 10 annual credit amounts have a present value of 70 percent of the qualified basis of the structure. The credit percentage for newly constructed or substantially rehabilitated housing that is federally subsidized is calculated to have a present value of 30 percent of the qualified basis of the structure. A low-income housing credit is allowable only if the owner of a qualified building receives a housing credit allocation from the State or local housing credit agency; such allocations are limited by the aggregate credit authority provided to each State. Generally, under prior law, the aggregate credit authority provided to each State for calendar year 2008 was $2.00 per resident, with a minimum annual cap of $2,325,000 for certain small population states; these amounts were indexed annually for inflation. This Act temporarily increased the aggregate credit authority provided to each State for calendar years 2008 and 2009 to $2.20 per resident, with a minimum annual cap of $2,557,500. This Act also established a temporary minimum credit percentage for newly constructed non-federally subsidized buildings placed in service after the date of enactment and before December 31, 2013, of nine percent. Other changes to the low-income housing credit included modifications to the definition of a federally subsidized building, modifications to the definition of eligible basis, coordination of certain rules applicable to the credit with those applicable to qualified residential rental project exempt facility bonds, and several other simplifications and reforms.

Temporarily increase the dollar value of tax-exempt qualified private activity bonds issued by State housing authorities.—Interest on bonds issued by State and local governments to finance activities carried out and paid for by private persons (private activity bonds) generally is taxable except in the case of certain qualified private activity bonds for specified purposes. Tax-exempt qualified private activity bonds generally are subject to an annual State bond volume cap based on population. The definition of qualified private activity bonds includes, but is not limited to, qualified mortgage bonds, qualified veterans' mortgage bonds, and bonds for qualified residential rental projects. Qualified mortgage bonds and bonds for qualified residential rental projects are subject to annual State volume limitations. Under prior law, the State volume cap for 2008 was $85 per resident of the State or $262,090,000, if greater. This Act authorized the issuance of an additional $11 billion of qualified mortgage bonds and bonds for qualified residential rental projects in 2008. Qualified mortgage bonds issued with respect to the additional volume cap could be used to finance new mortgages or to refinance qualified subprime loans.

Modify AMT treatment of interest on certain bonds, the low-income housing credit, and the rehabilitation credit.—Under prior law the low-income housing credit and the rehabilitation credit could not be used to offset AMT liability. In addition, interest on tax-exempt housing bonds (qualified mortgage bonds, qualified veterans' mortgage bonds and bonds for qualified residential rental projects) was an item of tax preference for AMT purposes. This Act allowed taxpayers to offset their AMT liability with the low-income housing credit and the rehabilitation credit, effective with respect to buildings placed in service and qualified rehabilitation expenditures incurred, respectively, after December 31, 2007. This Act also excluded interest on tax-exempt housing bonds from the AMT, effective with respect to such interest earned after July 30, 2008.

Other housing-related provisions.—Other housing-related provisions provided in this Act: (1) reformed certain rules related to real estate investment trusts (REITs); (2) relaxed mortgage revenue bond limitations in Presidentially-declared disaster areas; (3) modified refunding treatment for certain multifamily housing bonds; (4) expanded certain Gulf Opportunity Zone incentives; (5) modified the rehabilitation credit tax-exempt use safe harbor; (6) allowed bonds guaranteed by the Federal home loan banks to be treated as tax-exempt bonds; and (7) allowed taxpayers to elect to claim additional AMT or research credits in lieu of bonus depreciation.

Offsets

Modify the timing of estimated tax payments by corporations.—Corporations generally are required to pay their income tax liability in quarterly estimated payments. For corporations that keep their accounts on a calendar year basis, these payments are due on or before April 15, June 15, September 15, and December 15. If these dates fall on a holiday or weekend, payment is due on the next business day. For corporations with assets of at least $1 billion, prior legislation increased the estimated tax payments due in July through September of 2012 to 125 percent of the amount otherwise due and increased the estimated tax payments due in July through September of 2013 to 101.25 percent of the amount otherwise due, with the next required payment adjusted accordingly. This Act reduced the estimated tax payments due in July through September of 2012 to 100 percent of the amount otherwise due and increased the estimated tax payments due in July through September of 2013 to 118 percent of the amount otherwise due.

Delay implementation of the world-wide interest allocation rules.—Subject to various limitations, U.S. taxpayers may credit foreign taxes paid or accrued against U.S. tax on foreign-source income. The American Jobs Creation Act of 2004 made several changes to the foreign tax credit rules, including a modification to the interest expense allocation rules.

One provision of that Act permitted taxpayers a one-time election to use an alternative method for allocating their interest expenses between U.S.-source and foreign-source income ("worldwide affiliated group election"), effective for taxable years beginning after December 31, 2008. This Act delayed the effective date of the election for two years, so that it would apply to taxable years beginning after December 31, 2010, and provided a special phasein of the rule for the first year the election is in effect.

Modify the exclusion of gain on the sale of a principal residence in certain circumstances.—Taxpayers generally are allowed to exclude from tax up to $250,000 ($500,000 for married taxpayers filing a joint return) of gain realized on the sale or exchange of a principal residence. To be eligible for the exclusion, the taxpayer generally must have owned and used the residence as a principal residence for at least two of the five years ending on the sale or exchange. A taxpayer who fails to meet these requirements by reason of a change of place of employment, health, or, to the extent provided under regulations, unforeseen circumstances, is able to exclude an amount equal to the fraction of the $250,000 ($500,000 for married taxpayers filing a joint return) that is equal to the fraction of the two years that the ownership and use requirements are met. Special elections related to sales by members of the uniformed services, the Foreign Service, and certain employees of the intelligence community are also provided. Under this Act, effective for sales or exchanges after December 31, 2008, gain from the sale or exchange of a principal residence allocated to periods of nonqualified use (use as a second home or rental property) cannot be excluded from gross income. A period of nonqualified use would be any period after December 31, 2008, during which the property was not used by the taxpayer or the taxpayer's spouse or former spouse as a principal residence.

Require information reporting of payments made in settlement of payment card and third-party network transactions.—A variety of information reporting requirements are imposed on participants in certain transactions. These requirements are intended to assist taxpayers in preparing their income tax returns and to help the IRS determine whether such returns are correct and complete. Under this Act, merchant acquiring banks, third party settlement organizations, and other entities that handle credit, debit, and similar payments are required to report to the IRS and to each payee the gross amount of such payments made to each payee for each calendar year in settlement of payment card transactions and third party settlement transactions occurring in that calendar year. These information reporting requirements generally are effective for reportable payments made in calendar years beginning after December 31, 2010. The reportable payment transactions are also subject to backup withholding, effective for amounts paid after December 31, 2011.

FEDERAL AVIATION ADMINISTRATION EXTENSION ACT OF 2008, PART II

This Act extended the authority to collect taxes that fund the Airport and Airway Trust Fund through March 31, 2009. These taxes had been scheduled to expire after September 30, 2008, under prior law

FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008

This Act reauthorized the Adoption Incentives Program for five years and increased incentives for special needs and older child adoptions. The major provision of this Act that affected governmental receipts clarified the uniform definition of a qualifying child for Federal income tax purposes.

ANDEAN TRADE PREFERENCE ACT EXTENSION

This Act extended both the Andean Trade Preference Act and the Generalized System of Preferences through December 31, 2009, and made other changes to existing trade law. This Act also increased the estimated tax payments due in July through September of 2013 by corporations with assets of at least $1 billion to 120 percent of the amount otherwise due. For corporations affected by this provision, the next required estimated tax payment is reduced accordingly.

EMERGENCY ECONOMIC STABILIZATION ACT OF 2008, ENERGY IMPROVEMENT AND EXTENSION ACT OF 2008, AND TAX EXTENDERS AND ALTERNATIVE MINIMUM TAX RELIEF ACT OF 2008

AMT Relief

Increase and extend AMT exemption amounts.—A temporary provision of prior law increased the AMT exemption amounts to $44,350 for single taxpayers, $66,250 for married taxpayers filing a joint return and surviving spouses, and $33,125 for married taxpayers filing a separate return and estates and trusts. These temporary increases were effective for taxable years beginning after December 31, 2006 and before January 1, 2008. This Act increased the AMT exemption amounts, effective for taxable years beginning after December 31, 2007 and before January 1, 2009, to $46,200 for single taxpayers, $69,950 for married taxpayers filing a joint return and surviving spouses, and $34,975 for married taxpayers filing a separate return and for estates and trusts.

Extend AMT relief for nonrefundable personal credits.—Under a temporary provision of prior law, taxpayers were permitted to offset both the regular tax and the AMT with nonrefundable personal tax credits, effective for taxable years beginning before January 1, 2008. This Act extended minimum tax relief for nonrefundable personal tax credits for one year, to apply to taxable years beginning before January 1, 2009. The extension does not apply to the child credit, the new saver's credit, the EITC,

or the adoption credit, which were provided AMT relief through December 31, 2010, under the 2001 tax cut. The refundable portion of the child credit and the earned income tax credit are also allowed against the AMT through December 31, 2010. In addition, the extension does not apply to the residential energy efficient property credit or the new qualified plug-in electric drive motor vehicle credit, both of which are allowed against the AMT.

Increase refundable AMT credit amount for certain individuals with long-term unused credits for prior year minimum tax liability.—Under prior law, an individual was allowed a refundable AMT credit amount that was the greater of: (1) the lesser of $5,000 or the unused AMT credit amount, or (2) 20 percent of the unused AMT credit amount. The AMT credit amount was reduced for those with AGI above $100,000 ($150,000 for married taxpayers filing a joint return), and was refunded in equal installments over five years. This Act allowed 50 percent of long-term unused AMT tax credits to be refunded over each of two years instead of 20 percent over each of five years, eliminated the income phaseout, and, effective October 3, 2008, abated any underpayment of tax outstanding related to incentive stock options and the AMT, including interest.

Disaster Relief

Provide temporary tax relief to victims of Midwestern severe storms, tornados, and flooding in 2008.—This Act provided tax relief for victims of the severe storms, tornados, and floods that took place in the Midwestern disaster area. The Midwestern disaster area is that area with respect to which: (1) a major disaster was declared by the President on or after May 20, 2008 and before August 1, 2008, by reason of severe storms, tornados, or flooding occurring in any of the States of Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska and Wisconsin; and (2) determined by the President to warrant individual or individual and public assistance with respect to damages attributable to such severe storms, tornados, or flooding. The major tax relief provided included the following: (1) expanded tax-exempt private activity bond financing authority subject to a volume cap; (2) an increase in the otherwise applicable aggregate low-income housing credit authority; (3) partial expensing for certain demolition and clean-up costs; (4) expensing of certain environmental remediation costs; (5) an increase in the rehabilitation tax credit; (6) the five-year carryback of certain net operating losses; (7) the issuance of Midwestern tax credit bonds; (8) expansion of the Hope Scholarship Credit and Lifetime Learning Credit; (9) a temporary income exclusion for employer-provided lodging; (10) special rules for penalty-free distributions from qualified retirement funds; (11) an employee retention credit; (12) temporary suspension of the limitations on qualified charitable contributions; (13) suspension of limitations on personal casualty losses; (14) adjustments regarding taxpayer and dependency status; (15) an additional personal exemption for providing housing to displaced individuals; (16) an increase in the standard mileage rate for charitable use of a vehicle; (17) an exclusion from taxable income of mileage reimbursements received by charitable volunteers; (18) an exclusion from taxable income of certain cancellations of indebtedness; (19) an extended replacement period for non-recognition of gain on principal residences and business property; and (20) special look-back rules for determining eligibility for the refundable earned income credit and the refundable child credit.

Extend certain tax relief to victims of Hurricane Katrina.—This Act extended the work opportunity tax credit provided for wages paid to eligible individuals in the Hurricane Katrina core disaster area to apply to individuals hired after August 27, 2007 and before August 29, 2009. This Act also extended the increased rehabilitation credits for qualified rehabilitation expenditures for structures in the Gulf Opportunity Zone to apply to expenditures paid or incurred after December 31, 2008 and before January 1, 2010.

Provide temporary tax relief to victims of Hurricane Ike.—This Act provided temporary expanded tax-exempt private activity bond financing authority subject to a volume cap and an increase in the otherwise applicable low-income housing tax credit authority for areas in Texas and Louisiana damaged by Hurricane Ike.

Provide temporary tax relief to victims of all Federally-declared disasters.—This Act provided the following tax relief to victims of all Federally-declared disasters occurring after December 31, 2007 and before January 1, 2010: (1) reform of the rules regarding the deductibility of casualty losses; (2) expensing of qualified disaster expenses; (3) five-year carryback of net operating losses; (4) tax-exempt bond financing; (5) bonus depreciation for qualified disaster property; and (6) increased expensing for qualified disaster property.

Other Tax Relief

Temporarily modify the income threshold used to calculate the refundable portion of the child tax credit.—The child tax credit is refundable to the extent of the lesser of: (1) 15 percent of the taxpayer's earned income in excess of an earned income threshold of $10,000, indexed annually for inflation beginning in 2002; or (2) any child credit unclaimed due to insufficient tax liability. This Act temporarily reduced the earned income threshold, which was $12,050 for taxable years beginning in 2008, to $8,500 for taxable years beginning in 2008.

Provide other tax relief.—Other tax relief provided in this Act: (1) modified the domestic production activities deduction for film and television productions; (2) exempted certain wooden arrows designed for use by children from the current law excise tax on the first sale by the manufacturer, producer, or imported of any shaft of a type used to produce certain types of arrows; (3) allowed income averaging for amounts received in connection with the Exxon Valdez litigation; (4) reduced the recovery

period for certain farming business machinery or equipment from seven to five years; and (5) modified the penalty levied on the understatement of a taxpayer's liability by a tax return preparer.

Mental Health Parity

Establish new mental health parity requirements.—This Act contained the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, which established new mental health parity requirements applicable to group health plans and health insurance coverage offered in connection with such plans. Group health plans that provide both medical and surgical benefits and mental health and substance use disorder benefits would be required to ensure that the financial requirements, treatment limitations, and out-of-network coverage limitations applicable to mental health benefits and substance use disorder benefits were no more restrictive than those applicable to substantially all medical and surgical benefits covered by the plan (or under health insurance coverage offered in connection with the plan). As under prior law, group health plans would not be required to provide mental health or substance use disorder benefits, and group health plans would be allowed to define what mental health or substance use disorder benefits would be offered. Group health plans would be allowed to file for a one-year exemption to the parity requirements if, after six months of implementation, the actual total costs of coverage increased by more than one percent (two percent for the initial year). These requirements generally were effective for plan years beginning after October 16, 2009. Additionally, this Act removed the annual sunset on the prohibition of annual and lifetime limits on mental health benefits that are more restrictive than medical and surgical benefits.

Energy Tax Incentives

Extend and modify the tax credit for energy produced from certain renewable sources.—Taxpayers are allowed a tax credit for electricity produced from wind, closed-loop biomass, open-loop biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, and qualified hydropower. The credit rate is 1.5 cents per kilowatt hour for electricity produced from wind, closed-loop biomass, geothermal, and solar power, and 0.75 cent per kilowatt hour for electricity produced from open-loop biomass, small irrigation power, municipal solid waste, and qualified hydropower (both rates are adjusted for inflation since 1992). A credit is also provided for the production of refined coal and Indian coal at qualified facilities. The credit for refined coal is $4.375 per ton (adjusted for inflation since 1992) and the credit for Indian coal is $1.50 per ton for coal produced after December 31, 2005 and before January 1, 2010, and $2.00 per ton for coal produced after December 31, 2009 and before January 1, 2013. To qualify for the credit under prior law, electricity generally had to be produced at a facility placed in service before January 1, 2009 (January 1, 2006, in the case of solar facilities). This Act extended the placed in service date for qualified facilities producing electricity from closed-loop biomass, open-loop biomass, geothermal energy, small irrigation power, municipal solid waste, and qualified hydropower for two years through December 31, 2010; the placed-in-service date for qualified wind facilities and refined coal facilities was extended for one year through December 31, 2009. This Act also expanded the credit to apply to marine and hydrokinetic renewable energy produced at qualified facilities placed in service after October 2, 2008 and before January 1, 2012.

Extend and modify business energy credit.—Prior law provided a 10-percent business energy tax credit for the cost of new property that either: (1) uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat; or (2) is used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage. Property used to generate energy for the purpose of heating a swimming pool and public utility property generally were not eligible for the credit. For equipment purchased after December 31, 2005 and before January 1, 2009, prior law also provided: (1) an increase in the credit rate for solar energy property to 30 percent; (2) a 30-percent credit for equipment using fiber-optic distributed sunlight to illuminate the inside of a structure; (3) a 30-percent credit for qualified fuel cell power plants (limited to $500 for each 0.5 kilowatt of capacity); and (4) a credit for qualified stationary microturbine power plants equal to the lesser of 10 percent of the basis of the property or $200 for each kilowatt of capacity. This Act: (1) extended the otherwise expiring credits and credit rates for eight years, through December 31, 2016; (2) provided, through December 31, 2016, a new 30-percent credit for small wind energy property (limited to $4,000 per year) and new 10-percent credits for combined heat and power (CHP) property and geothermal heat pump systems; and (3) increased the credit limitation for fuel cell property to $1,500 for each 0.5 kilowatt of capacity. This Act also allowed the credit against the AMT and repealed the prior law restriction on public utility property.

Extend and modify credit for residential energy efficient property.—A personal tax credit, equal to 30 percent of qualified expenditures, is provided for the purchase of qualified solar electric property and qualified solar water heating property used for purposes other than heating swimming pools and hot tubs. The maximum credit for each of these systems of property is $2,000. A 30-percent credit (not to exceed $500 for each 0.5 kilowatt of capacity) is also provided for the purchase of qualified fuel cell power plants. This Act: (1) extended these credits, which had been scheduled to expire with respect to property placed in service after December 31, 2008, to apply to property placed in service before January 1, 2017; (2) removed the $2,000 cap for solar electric property placed in service after October 3, 2008; (3) provided a 30-percent credit (limited to $500 per half kilowatt of

capacity and $4,000 per year) for qualified small wind energy property placed in service after December 31, 2007 and before January 1, 2017; and (4) provided a 30-percent credit (not to exceed $2,000) for qualified geothermal heat pump property placed in service after December 31, 2007 and before January 1, 2017.

Modify the advanced coal project investment credit.—Under prior law, a 20-percent credit was available for investment in power generation projects that use integrated gasification combined cycle (IGCC) technologies and a 15-percent credit was available for investment in other advanced coal-based electricity generation technologies. The credits were available only for projects certified by the Secretary of the Treasury. The Secretary of the Treasury was allowed to allocate $800 million of credits to projects using IGCC technologies and $500 million to projects using other advanced coal-based electricity generation technologies. Applications for credits were required to be submitted during the three-year period ending on March 12, 2009. This Act: (1) increased the credit rate for advanced coal-based electricity generation projects to 30 percent; (2) allowed the Secretary of the Treasury to allocate an additional $1.25 billion of credits for advanced coal-based electricity generation projects; (3) modified the definition of qualifying projects to require that projects include equipment that separates and sequesters at least 65 percent of the project's total carbon dioxide emissions (70 percent if the credits are later reallocated); and (4) required that the highest priority be given to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions. Applications for the additional credit are required to be submitted during a three-year period beginning no later than March 13, 2009.

Modify the coal gasification investment credit.—This Act increased from 20 percent to 30 percent the investment tax credit available for investment in certain qualifying coal gasification projects. This Act also allowed the Secretary of the Treasury to allocate an additional $250 million in credits (the credit is available only for projects certified by the Secretary of the Treasury and, under prior law, the Secretary was allowed to allocate $350 million in credits). This Act required that the additional credits be allocated to projects that include equipment that separates and sequesters at least 75 percent of total carbon dioxide emissions and that the highest priority be given to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions.

Provide tax credits for carbon capture and sequestration.—This Act provided tax credits of $20 per metric ton of qualified carbon dioxide captured at a qualified facility and disposed of in secure geological storage and $10 per metric ton of qualified carbon dioxide captured at a qualified facility and used as a tertiary injectant in a qualified enhanced oil or natural gas recovery project. The credits are indexed annually for inflation beginning in 2010 and apply to carbon dioxide captured after October 3, 2008, and before the end of the calendar year in which the Secretary of the Treasury certifies that 75 million metric tons of qualified carbon dioxide have been captured and disposed of or used as a tertiary injectant.

Provide a credit for plug-in electric drive vehicles.—This Act provided a tax credit for each qualified plug-in electric drive motor vehicle (a vehicle that has at least four wheels, is manufactured for use on public roads, meets certain emissions standards, draws propulsion using a traction battery with at least four kilowatt-hours of capacity, and is capable of being recharged from an external source of electricity) placed in service by a taxpayer. The base amount of the credit is $2,500, plus $417 for each kilowatt-hour of battery capacity in excess of four kilowatt-hours. The maximum credit varies by weight of the vehicle, ranging from $7,500 for a vehicle weighing less than 10,000 pounds to $15,000 for a vehicle weighing more than 26,000 pounds. The credit is scheduled to phase out over the four calendar quarters beginning in the second quarter following the quarter in which a total of 250,000 credit-eligible vehicles are sold for use in the United States; the credit is not available for purchases after December 31, 2014.

Authorize the issuance of a new category of clean renewable energy bonds.—This Act authorized the issuance of $800 million of taxable tax credit bonds, called new clean renewable energy bonds, which provide a Federal subsidy through tax credits to investors equal to 70 percent of the interest on the bonds. Such bonds are used to finance capital expenditures incurred by governmental bodies, public power providers, or cooperative electric companies for qualified renewable energy facilities. The Secretary of the Treasury is required to allocate 1/3 of the national bond authorization to eligible projects for each of the following types of beneficiaries: public power providers, governmental bodies, and cooperative electric companies.

Extend and modify credits for renewable diesel and biodiesel fuels.—An excise tax credit of 50 cents is provided for each gallon of biodiesel ($1.00 for each gallon of agri-biodiesel) used by a taxpayer in producing a biodiesel mixture for sale or use in a trade or business. An income tax credit for biodiesel fuels (the biodiesel fuels credit) is also provided. The biodiesel fuels credit is the sum of three credits: (1) the biodiesel mixture credit, which is 50 cents for each gallon of biodiesel ($1.00 for each gallon of agri-diesel) used by the taxpayer in the production of a qualified biodiesel mixture; (2) the biodiesel credit, which is 50 cents per gallon for each gallon of biodiesel ($1.00 for each gallon of agri-diesel) that is not in a mixture with diesel when used as a fuel or sold at retail; and (3) the small agri-biodiesel producer credit, which is a 10-cents-per-gallon credit for up to 15 million gallons of agri-biodiesel produced by small producers. Renewable diesel is eligible for both the excise tax credit

and the income tax credit provided to biodiesel fuels at a rate of $1.00 per gallon. This Act extended for one year, through December 31, 2009, the income and excise tax credits provided to biodiesel (including agri-biodiesel) and renewable diesel, and increased the credit rate for biodiesel to $1.00 per gallon.

Provide other incentives for energy production and conservation.—This Act also: (1) authorized the issuance of $800 million of qualified energy conservation bonds to finance one or more qualified conservation purposes; (2) reduced the recovery period for the depreciation of smart electric meters and smart electric grid equipment from 20 years to 10 years; (3) modified and reinstated for 2009 the credit for energy efficiency improvements to existing homes; (4) extended the deduction for energy-efficient commercial buildings for five years through December 31, 2013; (5) extended the credit for energy-efficient new homes through December 31, 2009; (6) modified and extended through December 31, 2010, the credit for the production of energy-efficient appliances; (7) extended the authority to issue qualified green building and sustainable design project bonds through December 31, 2012; (8) allowed taxpayers to claim an additional first-year depreciation allowance equal to 50 percent of the cost of certain reuse and recycling property; (9) reinstated the suspension of 100-percent-of-net-income limitation on percentage depletion for oil and natural gas from marginal properties for 2009; and (10) modified and extended through December 31, 2013, the election to expense refineries.

Expiring Provisions

Extend the ability to exclude discharges of indebtedness on principal residences from gross income.—Gross income generally includes income realized by a debtor from the discharge of indebtedness, subject to certain exceptions (debtors in Title 11 bankruptcy cases, insolvent debtors, certain student loans, certain farm indebtedness, and certain real property business indebtedness). In cases involving discharges of indebtedness excluded from gross income under the exceptions to the general rule, taxpayers generally must reduce certain tax attributes, including basis in the property, by the amount of the discharge of indebtedness. However, the amount of discharge of indebtedness excluded from gross income by an insolvent debtor not in a Title 11 bankruptcy case cannot exceed the amount by which the debtor is insolvent. The amount of discharge of indebtedness generally is equal to the difference between the amount of debt being cancelled and the amount used to satisfy the debt. Prior law expanded the types of discharges of indebtedness excluded from gross income to include up to $2 million (or up to $1 million per spouse, if a married couple files separately) of qualified principal residence indebtedness discharged on or after January 1, 2007 and before January 1, 2010. The exclusion does not apply to discharges on account of services performed for the lender or any other factor not directly related to a decline in the value of the residence or to the financial condition of the taxpayer; in addition, the basis in the principal residence must be reduced by the amount of discharge of indebtedness excluded from gross income. This Act extended the exclusion to apply to qualified principal residence indebtedness discharged before January 1, 2013.

Extend optional deduction for State and local general sales taxes.—Under prior law, effective for taxable years beginning after December 31, 2003 and before January 1, 2008, a taxpayer was allowed to elect to take an itemized deduction for State and local general sales taxes in lieu of the itemized deduction for State and local income taxes. This Act extended this deduction for two years, effective for taxable years beginning before January 1, 2010.

Extend deduction for qualified tuition and related expenses.—An above-the-line deduction of up to $4,000 is provided for qualified higher education expenses paid by a qualified taxpayer during the taxable year. For a given taxable year, the deduction may not be claimed if an education tax credit is claimed for the same student. In addition, the deduction may not be claimed for amounts taken into account in determining the amount excludable from income due to a distribution from a Coverdell education savings account or the amount of interest excludable from income with respect to education savings bonds. A taxpayer may not claim a deduction for the amount of a distribution from a qualified tuition plan that is excludable from income; however, the deduction may be claimed for the amount not attributable to earnings. This Act extended the deduction, which had expired with respect to expenses incurred in taxable years beginning after December 31, 2007, to apply to expenses incurred in taxable years beginning before January 1, 2010.

Extend the above-the-line deduction for qualified out-of-pocket classroom expenses.—Taxpayers who itemize deductions (do not use the standard deduction) and incur unreimbursed, job-related expenses may deduct those expenses to the extent that when combined with other miscellaneous itemized deductions they exceed two percent of AGI. Under prior law, certain teachers and other elementary and secondary school professionals could deduct up to $250 in annual qualified out-of-pocket classroom expenses above-the-line in 2005, 2006, and 2007. Expenses claimed as an above-the-line deduction could not be claimed as an itemized deduction. This Act extended this above-the-line deduction to apply to expenses incurred before January 1, 2010.

Extend the above-the-line deduction for State and local real property taxes.—An individual taxpayer's taxable income is computed by reducing AGI either by a standard deduction or, if the taxpayer elects, by the taxpayer's itemized deductions. An above-the-line deduction of up to $500 ($1,000 for married taxpayers filing a joint return) for State and local real property taxes was provided to homeowners who do not itemized their Federal

tax deductions under prior law. This Act extended the deduction, which was effective for taxable years beginning after December 31, 2007 and before January 1, 2009, to apply to taxable years beginning before January 1, 2010.

Extend tax-free distributions from Individual Retirement Accounts (IRAs) for charitable contributions.—An exclusion from gross income is provided for otherwise taxable distributions from a traditional or a Roth IRA made directly to a qualified charitable organization. The exclusion may not exceed $100,000 per taxpayer per taxable year and is applicable only to distributions made on or after the date the IRA owner attains age 70½. This Act extended this exclusion, which had been effective with respect to distributions made in taxable years beginning after December 31, 2005 and before January 1, 2008, to apply to distributions made in taxable years beginning before January 1, 2010. The exclusion applies only if a charitable contribution deduction for the entire distribution would otherwise be allowable under current law, determined without regard to the percentage-of-AGI limitation. No charitable deduction is allowed with respect to any amount excludable from income under this provision.

Extend the research and experimentation (R&E) tax credit.—This Act extended the 20-percent tax credit for qualified research and experimentation expenditures above a base amount, which had expired with respect to expenditures incurred in taxable years beginning after December 31, 2007, for two years to apply to expenditures incurred in taxable years beginning before January 1, 2010. This Act also increased the alternative simplified credit from 12 percent to 14 percent for taxable years ending after 2008 and repealed the alternative incremental research credit for taxable years beginning after 2008.

Extend the new markets tax credit.—The new markets tax credit is provided for qualified equity investments made to acquire stock in a corporation or a capital interest in a partnership that is a qualified community development entity. A credit of five percent is provided to the investor for the first three years of investment. The credit increases to six percent for the next four years. The maximum amount of annual qualifying equity investment is capped at $2.0 billion for calendar years 2004 and 2005, and $3.5 billion for calendar years 2006 through 2008. This Act extended the credit to apply to 2009.

Extend Subpart F "active financing" and "look-through" exceptions.—Under Subpart F, U.S. shareholders of a controlled foreign corporation (CFC) are subject to U.S. tax currently on certain income earned by the CFC, whether or not such income is distributed. The income subject to current inclusion under Subpart F includes, among other things, "foreign personal holding company income" and insurance income. Foreign personal holding company income generally includes dividends; interest; royalties; rents; annuities; net gains from the sale of certain property, including securities, commodities and foreign currency; and income from notional principal contracts and securities lending activities. Under prior law, for taxable years beginning before January 1, 2009, exceptions from Subpart F were provided for: (1) certain income derived in the active conduct of a banking, financing, insurance, or similar business (active financing), and (2) dividends, interest, rents and royalties received by one CFC from a related CFC to the extent attributable or properly allocable to income of the related CFC that is neither Subpart F income nor income treated as effectively connected with the conduct of a trade or business in the United States (look-through). This Act extended both the Subpart F active financing and look-through exceptions to apply to taxable years beginning before January 1, 2010.

Extend modified recovery period for qualified leasehold improvements and qualified restaurant property.—A taxpayer generally must capitalize the cost of property used in a trade or business and recover such cost over time through annual deductions for depreciation or amortization. Tangible property generally is depreciated under MACRS. Under this system, depreciation is determined by applying specified recovery periods, placed-in-service conventions, and depreciation methods to the cost of various types of depreciable property. Depreciation allowances for improvements made on leased property are determined under MACRS, even if the recovery period assigned to the property is longer than the term of the lease. Under prior law, the recovery period for qualified leasehold improvement property and qualified restaurant property was temporarily reduced from 39 years to 15 years, effective for such property placed in service before January 1, 2008. This Act extended the 15-year recovery period applicable to qualified leasehold improvement property and qualified restaurant property, effective for such property placed in service before January 1, 2010. This Act also modified the definition of qualified restaurant property and removed qualified restaurant property from eligibility for an additional first-year depreciation allowance.

Allow temporary 15-year recovery period for qualified retail improvement property.—A taxpayer generally must capitalize the cost of property used in a trade or business and recover such cost over time through annual deductions for depreciation or amortization. Tangible property generally is depreciated under MACRS. Under this system, depreciation is determined by applying specified recovery periods, placed-in-service conventions, and depreciation methods to the cost of various types of depreciable property. This Act allowed a 15-year recovery period and the straight-line method to be used for qualified retail improvement property placed in service after December 31, 2008 and before January 1, 2010. Such property includes certain improvements made to an interior portion of a building, provided such portion is used in the retail trade or business of selling tangible personal property to the general public. Such property is not quali-

fied property for purposes of the additional first-year depreciation allowance.

Extend authority to issue qualified zone academy bonds.—State and local governments are allowed to issue taxable tax credit bonds, called qualified zone academy bonds, which provide a Federal subsidy through tax credits to investors equal to 100 percent of the interest on the bonds. The proceeds of the bonds must be used for teacher and other personnel training, purchases of equipment, curriculum development, or renovation and repairs at certain public school facilities. A nationwide total of $400 million of qualified zone academy bonds were authorized to be issued in each of calendar years 1998 through 2007 under prior law. In addition, unused authority arising in 1998 and 1999 could be carried forward for up to three years and unused authority arising in 2000 to 2007 could be carried forward for up to two years. This Act provided an addition $400 million for qualified zone academy bonds to be issued in each of calendar years 2008 and 2009. Unused authority arising in 2008 and 2009 can be carried forward for up to two years.

Extend tax incentives for employment and investment on Indian reservations.—This Act extended, for two years, through December 31, 2009, the employment tax credit for qualified workers employed on an Indian reservation and the accelerated depreciation rules for qualified property used in the active conduct of a trade or business within an Indian reservation. The employment tax credit is not available for employees involved in certain gaming activities or who work in a building that houses certain gaming activities. Similarly, property used to conduct or house certain gaming activities is not eligible for the accelerated depreciation rules.

Extend expensing of brownfields remediation costs.—Taxpayers may elect to treat certain environmental remediation expenditures that would otherwise be chargeable to a capital account as deductible in the year paid or incurred. This Act extended this provision, which applied to expenses incurred before January 1, 2008, under prior law, to apply to expenses incurred before January 1, 2010.

Extend the deduction for corporate donations of computer equipment for educational purposes.—The charitable contribution deduction that may be claimed by corporations for donations of inventory property generally is limited to the lesser of fair market value or the corporation's basis in the property. However, corporations are provided an enhanced deduction, not subject to the general limitation, for contributions of computer technology and equipment for educational purposes. The enhanced deduction is equal to the lesser of: (1) basis plus one-half of the item's fair market value in excess of basis; or (2) two times basis. To qualify for the enhanced deduction, equipment contributed must be donated no later than three years after the date the taxpayer acquired the property or, in the case of property constructed or assembled by the taxpayer, the date construction or assembly is substantially completed. This Act extended this provision, which had expired with respect to donations made in taxable years beginning after December 31, 2007, to apply to donations made in taxable years beginning after December 31, 2007 and before January 1, 2010.

Extend tax incentives for the District of Columbia (DC).—The DC Enterprise Zone includes the DC Enterprise Community and DC census tracts with a poverty rate of at least 20 percent. Businesses in the zone are eligible for: (1) a wage credit equal to 20 percent of the first $15,000 in annual wages paid to qualified employees who reside within DC; (2) $35,000 in increased expensing for small businesses; and (3) in certain circumstances, tax-exempt bond financing. In addition, a capital gains exclusion is allowed for certain investments held more than five years and made within the DC Enterprise Zone, or within a DC census tract with a poverty rate of at least 10 percent. This Act extended the DC Enterprise Zone incentives for two years, through December 31, 2009.

A one-time nonrefundable $5,000 credit is available to purchasers of a principal residence in the District of Columbia who have not owned a residence in the District during the year preceding the purchase. The credit phases out for taxpayers with modified AGI between $70,000 and $90,000 ($110,000 and $130,000 for joint returns). This Act extended the credit for two years, to apply to purchases after December 31, 2007 and before January 1, 2010.

Permanently extend provisions permitting disclosure of tax return information relating to terrorist activity.—The disclosure of tax return information relating to terrorism is permitted in two situations. The first is when an executive of a Federal law enforcement or intelligence agency has reason to believe that the return information is relevant to a terrorist incident, threat or activity and submits a written request. The second is when the IRS wishes to apprise a Federal law enforcement agency of a terrorist incident, threat or activity. This Act permanently extended this disclosure authority, which had expired on December 31, 2007.

Permanently extend IRS authority to fund undercover operations.—The IRS is permitted to fund certain necessary and reasonable expenses of undercover operations, placing it on equal footing with other Federal law enforcement agencies. These undercover operations include international and domestic money laundering and narcotics operations. This Act permanently extended this funding authority, which had expired on December 31, 2007.

Extend unemployment insurance surtax.—Under prior law the Federal unemployment tax on employers was scheduled to drop from 0.8 percent to 0.6 percent with respect to wages paid after December 31, 2008. This Act extended the 0.8 percent rate for one year, through December 31, 2009.

Extend and increase excise taxes deposited in the Oil Spill Liability Trust Fund.—A five-cent-per-barrel tax is imposed on: (1) crude oil received at a U.S. refinery; (2) imported petroleum products received for consumption, use or warehousing; and (3) any domestically produced crude oil that is used (other than on the premises where produced for extracting oil or natural gas) in or exported from the United States if, before such use or exportation, no taxes were imposed on the crude oil. The tax is deposited in the Oil Spill Liability Trust Fund. Amounts in the trust fund are used for several purposes, including the payment of costs associated with responding to and removing oil spills. The tax is suspended for a calendar quarter if, at the close of the preceding quarter, the unobligated balance in the fund exceeds $2.7 billion. This Act extended these taxes, which were scheduled to expire after September 30, 2014, through December 31, 2017. This Act also increased the tax imposed on crude oil and imported petroleum products to eight cents per barrel, effective for amounts received in the U.S. after December 31, 2008 and before January 1, 2017, and to nine cents per barrel, effective for amounts received in the U.S. after December 31, 2016. The provision suspending collections when trust fund balances exceed $2.7 billion was repealed.

Extend excise tax on coal at current rates.—Excise taxes levied on coal mined and sold for use in the United States are deposited in the Black Lung Disability Trust Fund. Amounts deposited in the trust fund are used to cover the cost of program administration and to pay compensation, medical, and survivor benefits to eligible miners and their survivors when mine employment terminated prior to 1970 or when no mine operator can be assigned liability. Tax rates on coal sold by a producer are $1.10 per ton of coal from underground mines and $0.55 per ton of coal from surface mines; however, these rates may not exceed 4.4 percent of the price at which the coal is sold. Under prior law, effective for coal sold after December 31, 2013, the tax rates on coal from underground mines and surface mines were scheduled to decline to $0.50 per ton and $0.25 per ton, respectively, and were to be capped at 2 percent of the price at which the coal is sold. This Act postponed the reduction in these tax rates until January 1, 2019.

Extend other expiring provisions.—This Act also extended, through December 31, 2009, the following provisions that had expired on December 31, 2007, under prior law: (1) the ability of regulated investment companies (RICs) to designate all or a portion of a dividend as an "interest-related dividend;" (2) the estate tax look-through rule for certain RIC stock; (3) the treatment of RICs as "qualified investment entities;" (4) the exclusion from unrelated business income of certain payments to controlling exempt organizations; (5) the ability of shareholders to adjust their basis in the stock of S corporations making charitable contributions; (6) the economic development credit provided to domestic corporations operating in American Samoa; (7) the domestic production activities deduction for activities in Puerto Rico; (8) the credit for certain expenditures for maintaining railroad tracks; (9) the seven-year recovery period for property used for land improvement and support facilities at motorsports entertainment complexes; (10) the enhanced deduction for contributions of books to public schools; and (11) the enhanced deduction for contributions of food inventory.

This Act also extended, through December 31, 2009, the following provisions that were scheduled to expire on December 31, 2008, under prior law: (1) the credit for training mine rescue teams; (2) the election to expense advanced mine safety equipment; and (3) special expensing rules for certain film and television production costs.

This Act extended for five years, through December 31, 2014, reduced import duties on a limited quantity of imported wool fabrics and the deposit of duties otherwise collected on the import of certain wool production in the Wool Trust Fund.

Other Tax Provisions

Modify treatment of gain or loss from the sale or exchange of certain preferred stock by applicable financial institutions.—Under prior law, a financial institution that held preferred stock issued by the Federal National Mortgage Corporation (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac) as a capital asset generally recognized capital gain or loss on the sale or taxable exchange of that stock. A financial institution generally included: (1) any bank, mutual savings bank, cooperative bank, domestic building and loan association, and other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law; (2) any small business investment company operating under the Small Business Investment Act of 1958; and (3) any business development corporation created by or pursuant to an act of a State legislature for purposes of promoting, maintaining, and assisting the economy and industry within such State, on a regional or statewide basis, by making loans to be used in trades and businesses that would generally not be made by banks within such region or State in the ordinary course of their business, and which is operated primarily for such purposes. Under this Act, gain or loss recognized by a financial institution or a depository institution holding company from the sale or exchange of preferred stock issued by Fannie Mae or Freddie Mac that was held by the financial institution on September 6, 2008, or was sold or exchanged by the financial institution on or after January 1, 2008 and before September 7, 2008, is treated as ordinary gain or loss for tax purposes.

Accelerate the payment of interest on the balances of depository institutions by the Federal Reserve System.—Under prior law, the Federal Reserve System was authorized to pay interest on the balances maintained at a Federal Reserve Bank by or on behalf of a depository institution beginning October 1, 2011. This Act accelerated the effective date of the payment of interest on such balances to October 1, 2008.

Offsets

Provide special rule for the taxation of executive compensation of employers participating in the Troubled Asset Relief Program (TARP).—An employer generally may deduct reasonable compensation for personal services as an ordinary and necessary business expense. However, the otherwise allowable deduction for compensation paid or accrued with respect to a covered employee of a publicly held corporation is limited to no more than $1 million per year. A covered employee is defined as the chief executive officer of the corporation (or someone acting in that capacity) as of the close of the taxable year and the four other most highly compensated officers for the taxable year. Unless specifically excluded, the deduction limitation applies to all remuneration for services, including cash and the cash value of all non-cash remuneration (including benefits). The $1 million cap is reduced by excess parachute payments that are not deductible by the corporation. Certain types of compensation, including remuneration payable on a commission basis, remuneration payable solely on account of the attainment of one or more performance goals, and payments to a tax-qualified retirement plan, are not subject to the deduction limit and are not taken into account in determining whether other compensation exceeds $1 million. This Act reduced the compensation limit to $500,000 in the case of otherwise deductible compensation of a covered executive for any applicable taxable year of an applicable employer. An applicable employer generally is any employer from which one or more troubled assets are acquired under TARP if the aggregate amount of the assets so acquired for all taxable years exceeds $300 million. An applicable taxable year with respect to an applicable employer means the first taxable year that includes any portion of the period during which the authorities for the TARP established under the Act are in effect (the "authorities period") if the aggregate amount of troubled assets acquired from the employer under that authority during the taxable year (when added to the aggregate amount so acquired for all preceding taxable years) exceeds $300 million and includes any subsequent taxable year that includes any portion of the authorities period.

Modify taxation of deferred compensation paid by certain tax indifferent parties.—Executives and other employees generally are allowed to defer paying tax on compensation until the compensation is paid. This deferral is made possible by rules that require the corporation paying the deferred compensation to defer the deduction that relates to the compensation until the compensation is paid. In the case of a taxpayer receiving deferred compensation from a tax indifferent party (such as a company incorporated in a low- or no-tax foreign jurisdiction), there is little or no offsetting deduction that can be deferred. This Act eliminated this benefit by taxing deferred compensation from a tax indifferent party as current income, effective with respect to deferred compensation for services performed after December 31, 2008.

Limit the deduction for domestic manufacturing.—The American Jobs Creation Act of 2004 provided a deduction equal to a portion of a taxpayer's qualified production activities income, phased in over six years. When fully effective for taxable years beginning after 2009, the deduction is nine percent (three percent for taxable years 2005 and 2006 and six percent for taxable years 2007, 2008, and 2009) of the lesser of: (1) qualified production activities income for the taxable year; or (2) taxable income (determined without regard to the deduction) for the year. However, the deduction for a taxable year generally is limited to an amount equal to 50 percent of W-2 wages of the employer for the taxable year. In general, qualified production activities income equals domestic production gross receipts in excess of: (1) the cost of goods sold that are allocable to such receipts; (2) other deductions, expenses, or losses directly allocable to such receipts; and (3) a proper share of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income. Domestic production gross receipts generally are gross receipts derived from: (1) any sale, lease, rental, license, exchange, or other disposition of (a) qualifying production property (generally any tangible personal property, computer software or sound recordings) manufactured, produced, grown, or extracted by the taxpayer in whole or in significant part within the Unites States; (b) any qualified film produced by the taxpayer (generally any motion picture film or videotape for which 50 percent or more of the total compensation relating to the production of such film is for specified services performed in the United States); and (c) electricity, natural gas, or potable water produced by the taxpayer in the United States; (2) construction activities performed in the United States; or (3) engineering or architectural services performed in the United States for construction projects in the United States. In general, domestic production gross receipts do not include any receipts derived from: (1) the sale of food or beverages prepared at a retail establishment; (2) the transmission or distribution of electricity, natural gas, or potable water; or (3) the leasing, licensing, or rental of property used by a related person. This Act reduced the deduction for taxpayers with oil related qualified production activities income for taxable years beginning after 2009 to six percent of the lesser of: (1) oil related qualified production activities income for the taxable year; (2) qualified production activities income for the taxable year; or (3) taxable income (determined without regard to the deduction) for the year. Oil related qualified production activities income means qualified production activities income for any taxable year that is attributable to the production, refining, processing, transportation, or distribution of oil, gas or any primary product thereof.

Apply special foreign tax credit limitation rules with regard to certain foreign oil and gas income.— U.S. taxpayers may credit foreign taxes paid or accrued against U.S. tax on foreign-source income, subject to various limitations. The foreign tax credit generally is limited to the U.S. tax liability on a taxpayer's foreign-

source income, and is calculated separately for various categories of income. In addition to these general limitations, a special limitation is placed on foreign income taxes on foreign oil and gas extraction income (FOGEI). Specifically, amounts claimed as taxes paid on FOGEI qualify as creditable taxes only to the extent they do not exceed the product of the highest marginal U.S. tax rate on corporations (currently 35 percent) multiplied by such extraction income. Foreign taxes paid in excess of that amount are, in general, neither creditable nor deductible; however, taxes paid in excess of the FOGEI limitation may be carried back to the immediately preceding taxable year and carried forward 10 taxable years and credited to the extent that the taxpayer otherwise has excess FOGEI limitation for those years. A limitation also applies to foreign taxes paid on foreign oil related income (FORI) in certain cases where the foreign law imposing such amount of tax is structured, or in fact operates, so that the amount of tax imposed with respect to foreign oil related income will generally be "materially greater" over a reasonable period of time than the amount generally imposed on income that is neither FORI nor FOGEI. Effective for taxable years beginning after December 31, 2008, this Act expanded the scope of FOGEI rules to apply to all foreign income from the production and other activities related to the sale of oil and gas products (that is, the sum of FOGEI and FORI as classified under prior law).

Require broker reporting of a customer's basis in securities transactions.—Information reporting requirements are imposed on participants in certain transactions under current law. These requirements are intended to assist taxpayers in preparing their tax returns and to assist the IRS in determining whether the taxpayer's tax return is accurate and complete. Under current law, brokers are required to report annually to the IRS and to customers the gross proceeds realized by customers from various sale transactions. Under this Act, brokers required to report gross proceeds from the sale of a covered security must also report the customer's adjusted basis in the security and whether any gain or loss with respect to the security is long-term or short-term. This change begins to take effect for securities transactions after December 31, 2010; however, this Act also extended the deadline from January 31 to February 15 for furnishing certain information statements to customers, effective for statements required to be furnished after December 31, 2008.

WORKER, RETIREE, AND EMPLOYER RECOVERY ACT OF 2008

The provision of this Act that had the greatest effect on governmental receipts temporarily waived required minimum distribution rules for certain retirement plans and accounts with respect to distributions required for calendar year 2009. Other provisions that affected governmental receipts: (1) increased the penalty for failure to file a partnership or S Corporation return; (2) modified the maximum benefit limitation for certain small pension plans; (3) modified the method for determining the fair market value of plan assets for pension plan funding purposes; (4) provided transition relief for the minimum funding requirements for single employer defined benefit plans; (5) provided for an optional delay in improvement in funded status for multiemployer plans; and (6) allowed amounts received in an airline bankruptcy to be contributed to a Roth IRA.

ADJUSTMENTS TO THE BUDGET ENFORCEMENT ACT (BEA) BASELINE TO REFLECT CURRENT POLICY

The first step in addressing the nation's fiscal problems is to be upfront about them – and to establish an honest baseline that measures where we are before new policies are enacted. This Budget does so by adjusting the BEA baseline to reflect the true cost of the current policy path. The BEA baseline, which is commonly used in budgeting and is defined in a now expired statute, with some exceptions reflects the projected receipts level under current law. But, under current law, relief from the AMT would expire at the end of this year, causing millions of Americans to begin paying this additional tax, and, furthermore, the 2001 and 2003 tax cuts would expire entirely at the end of 2010. These expirations were not written into law for policy reasons; instead, they reflect decisions made to artificially reduce the cost estimates of AMT relief and the 2001 and 2003 tax cuts to fit these policies within certain budget process rules. Because of this, the BEA's "current law" baseline is not an accurate reflection of what it would mean to continue forward with current policies. This Budget uses an adjusted baseline that continues AMT relief and the 2001 and 2003 tax cuts, so as to project future receipts under current policy and to better measure the effects of the Administration's proposed policy changes.

Index to inflation the 2009 parameters of the AMT as enacted in the American Recovery and Reinvestment Act of 2009.—The Administration's baseline projection of current policy reflects annual indexation of the AMT exemption amounts in effect for taxable year 2009 ($46,700 for single taxpayers, $70,950 for married taxpayers filing a joint return and surviving spouses, and $35,475 for married taxpayers filing a separate return and for estates and trusts); the income thresholds for the 28-percent rate ($87,500 for married taxpayers filing a separate return and $175,000 for all other taxpayers); and the income thresholds for the phaseout of the exemption amounts ($150,000 for married taxpayers filing a joint return and surviving spouses, $112,500 for single taxpayers, and $75,000 for married taxpayers filing a separate return). The baseline projection of current policy also extends AMT relief for nonrefundable personal credits.

Table 17–2. ADJUSTMENTS TO THE BUDGET ENFORCEMENT ACT (BEA) BASELINE ESTIMATES OF RECEIPTS TO REFLECT CURRENT POLICY [1]

(in billions of dollars)

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010–14	2010–19
BEA baseline receipts	2,184.8	2,392.4	2,893.5	3,215.0	3,471.0	3,674.3	3,887.2	4,088.8	4,290.3	4,510.3	4,743.4	15,646.1	37,166.0
Adjustments to reflect current policy:													
Index to inflation the 2009 parameters of the AMT as enacted in the American Recovery and Reinvestment Act	......	–14.1	–69.1	–33.9	–39.4	–46.4	–54.6	–63.5	–73.3	–84.7	–97.2	–202.8	–576.1
Continue the 2001 and 2003 tax cuts:													
Dividends tax rate structure	0.3	–5.5	–27.8	–6.6	–18.3	–30.9	–38.1	–39.6	–41.1	–42.7	–44.4	–89.0	–295.0
Capital gains tax rate structure	......	–2.0	–8.9	–3.0	–5.8	–9.1	–11.1	–12.1	–13.3	–14.2	–14.7	–28.7	–94.1
Expensing for small businesses	......	......	–2.5	–5.4	–4.3	–3.5	–3.0	–2.6	–2.2	–1.8	–1.7	–15.7	–27.1
Marginal individual income tax rate reductions	......	......	–90.9	–143.3	–155.5	–165.1	–175.1	–185.4	–195.9	–207.0	–218.4	–554.7	–1,536.6
Child tax credit [1]	......	......	–3.3	–13.1	–13.3	–13.5	–13.6	–13.6	–13.7	–13.7	–13.7	–43.2	–111.5
Marriage penalty relief [1]	......	......	–16.5	–26.2	–27.9	–29.4	–30.5	–31.8	–33.1	–34.4	–35.9	–99.9	–265.7
Education incentives	......	*	–0.7	–1.3	–1.4	–1.5	–1.6	–1.6	–1.7	–1.8	–1.9	–5.0	–13.6
Other incentives for families and children	......	*	–0.5	–1.0	–1.1	–1.1	–1.1	–1.1	–1.2	–1.2	–1.2	–3.7	–9.5
Estate, generation-skipping transfer taxes, and gift taxes at 2009 parameters	–0.5	3.1	1.1	–13.5	–16.9	–19.9	–21.7	–23.4	–24.9	–26.5	–28.3	–46.3	–171.1
Subtotal, continue the 2001 and 2003 tax cuts	–0.2	–4.3	–149.9	–213.5	–244.5	–274.0	–295.8	–311.3	–327.1	–343.3	–360.4	–886.2	–2,524.1
Total, adjustments to reflect current policy	–0.2	–18.4	–218.9	–247.4	–283.8	–320.4	–350.4	–374.8	–400.4	–428.0	–457.5	–1,089.0	–3,100.2
Baseline projection of current policy receipts	2,184.7	2,374.0	2,674.5	2,967.5	3,187.1	3,353.9	3,536.8	3,713.9	3,889.9	4,082.3	4,285.9	14,557.1	34,065.9

*$50 million or less.

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

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010–14	2010–19
Child tax credit	......	......	*	14.5	14.4	14.4	14.4	14.6	14.7	14.8	15.0	43.4	116.9
Marriage penalty relief	......	......	–0.6	2.0	1.9	1.8	1.8	1.8	1.8	1.8	1.8	5.1	14.2
Total, outlay effects of adjustments to reflect current policy	......	......	–0.5	16.5	16.3	16.2	16.2	16.4	16.5	16.6	16.8	48.5	131.1

Continue the 2001 and 2003 tax cuts.—Most of the tax reductions enacted in 2001 and 2003 expire on December 31, 2010. The Administration's baseline projection of current policy continues all of these expiring provisions except for repeal of estate and generation-skipping transfer taxes. Estate and gift taxes are assumed to be extended at parameters in effect for calendar year 2009 (a top rate of 45 percent and an exemption amount of $3.5 million).

PROPOSALS

The Administration proposes to restore balance to the tax code by returning to the pre-2001 ordinary income tax rates for families making more than a quarter of a million dollars a year, giving 95 percent of working families a tax cut, closing loopholes, and eliminating subsidies to special interests. These proposals are described below.

Tax Cuts for Families and Individuals

Provide making work pay tax credit.—A refundable tax credit equal to 6.2 percent of earned income, up to a maximum of $400 for working single taxpayers and $800 for working married taxpayers filing a joint return, was provided for taxable years 2009 and 2010 under ARRA. The credit is phased out at a rate of two percent for taxpayers with modified AGI in excess of $75,000 ($150,000 for married taxpayers filing a joint return). Payments will be made to each possession of the United States with a mirror tax system (U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands) in an amount equal to the loss in receipts to that possession attributable to the credit provided in this Act. Payments will be made to each possession that does not have a mirror tax system (Puerto Rico and American Samoa) in an amount estimated by the Department of the Treasury as being equal to the aggregate credits that would have been allowed to residents of that possession if a mirror tax system had been in effect. Effective for taxable years beginning after December 31, 2010, the Administration proposes to make the credit permanent. The Administration would also decrease the rate at which the credit phases out from two percent to 1.6 percent as of taxable year 2011. The income thresholds for the phaseout of the cred-

it, but not the value of the credit, would be indexed annually for inflation beginning in taxable year 2011.

Expand 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. Three separate credit schedules apply, depending on whether the eligible taxpayer has no, one, or more than one qualifying child. Under prior law, for taxable year 2009, taxpayers with more than one qualifying child were provided a credit of 40 percent on up to $12,570 in earnings, for a maximum credit of $5,028. The credit was reduced at the rate of 21.06 percent of earnings in excess of $16,420 for single taxpayers ($19,540 for married taxpayers filing a joint return). Effective for taxable years 2009 and 2010, ARRA increased the credit percentage for families with three or more qualifying children to 45 percent, thereby creating a fourth credit schedule with a maximum credit of $5,656.50. This Act also provided marriage penalty relief to married couples filing a joint return (regardless of the number of qualifying children) by increasing the income thresholds for the phaseout of the EITC to $5,000 above the income thresholds for the phaseout for other taxpayers for 2009, and indexed this amount for 2010. Effective for taxable years beginning after December 31, 2010, the Administration proposes to permanently extend: (1) the 45-percent credit percentage for families with three or more qualifying children; and (2) the increase in the income thresholds for the phaseout of the EITC for married taxpayers filing a joint return (regardless of the number of children) above the income thresholds for the phaseout of the EITC for other taxpayers. The increase would be indexed annually for inflation from its $5,000 value in 2009.

Expand refundability of the child tax credit.—Taxpayers are provided a nonrefundable tax credit of up to $1,000 for each qualifying child under the age of 17. The credit is reduced by $50 for each $1,000 (or fraction thereof) of modified AGI over $75,000 for single taxpayers ($110,000 for married taxpayers filing a joint return). If the credit exceeds the taxpayer's individual income tax liability, the taxpayer is eligible for a refundable credit (the additional child credit) equal to 15 percent of earned income in excess of a threshold dollar amount ($12,550 for 2009) for any child credit unclaimed due to insufficient income tax liability. The income threshold is indexed annually for inflation. Families with three or more children may use an alternative formula for calculating this benefit. Under ARRA, effective for taxable years 2009 and 2010, the refundable tax credit was increased to 15 percent of earned income in excess of $3,000. The Administration proposes to make the $3,000 threshold permanent, effective for taxable years beginning after December 31, 2010.

Expand saver's credit and provide automatic enrollment in IRAs.—Under current law, taxpayers age 18 or older who are not dependents or full-time students may receive a nonrefundable credit (the saver's credit) on up to $2,000 of their compensation contributed to employer-sponsored qualified retirement plans and IRAs. The credit ranges between 10 and 50 percent of the amount contributed, depending on the taxpayer's filing status and AGI (adjusted for inflation). In determining the credit, qualified contributions are reduced by distributions from qualified plans and IRAs during the current tax year, the two preceding tax years, and the following year, up to the due date of the return, including extensions. Effective for taxable years beginning after December 31, 2010, the Administration proposes to modify the existing credit by: (1) making it refundable; and (2) converting it to a 50-percent match on up to $500 in qualified retirement savings per individual per year (indexed annually for inflation beginning with taxable year 2011). The amount of savings that could be matched would phase out at a rate of five percent for AGI in excess of $32,500 for single taxpayers ($65,000 for married taxpayers filing a joint return); the AGI thresholds would be indexed annually for inflation beginning with taxable year 2011. The Administration also proposes to require employers who do not currently offer a retirement plan to offer automatic enrollment in an IRA to all of their employees, effective for taxable years beginning after December 31, 2011. Small employers (those with less than 10 employees) would be exempt. An employee not providing a written participation election would be enrolled in an IRA at a default rate of three percent of the employee's compensation. Employees would always have the option of opting out. Employers that offer an automatic IRA would be entitled to a temporary business tax credit.

Provide American opportunity tax credit.—Taxpayers are provided a nonrefundable tax credit of up to $1,800 (for 2009) per eligible student per year for qualified tuition and related expenses paid for the first two years of the student's post-secondary education in a degree or certificate program. To be eligible for the credit, the student must be enrolled at least half-time in a degree or certificate program. This credit, called the Hope Scholarship Credit, is equal to 100 percent of the first $1,200 of qualified tuition and related expenses and 50 percent of the next $1,200 of qualified tuition and related expenses; these amounts are indexed annually for inflation and rounded down to the next lowest multiple of $100. The credit is phased out ratably for single taxpayers with modified AGI between $50,000 and $60,000 ($100,000 and $120,000 for married taxpayers filing a joint return) for 2009. The income thresholds for the phaseout of the credit are indexed annually for inflation, with the amount rounded down to the next lowest multiple of $1,000.

ARRA created the American opportunity tax credit to replace the Hope Scholarship Credit for taxable years 2009 and 2010. The new tax credit is partially refundable, has a higher maximum credit amount, is available for the first four years of postsecondary education, and has higher phase-out limits. Under the American opportunity tax credit, taxpayers are provided a credit of up to

$2,500 per eligible student per year for qualified tuition and related expenses (expanded to include course materials) paid for each of the first four years of the student's post-secondary education in a degree or certification program. The student must be enrolled at least half-time to receive the credit. The credit is equal to 100 percent of the first $2,000 in qualified tuition and related expenses, and 25 percent of the next $2,000 of qualified tuition and related expenses. In addition, generally 40 percent 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 the American opportunity tax credit and index the expense amounts and phase-out limits, effective for taxable years beginning after December 31, 2010.

Tax Cuts for Businesses

Eliminate capital gains taxation on small businesses.—Current law provides a 50-percent exclusion from tax for capital gains realized on the sale of certain small business stock held for more than five years. The amount of gain eligible for the exclusion is limited to the greater of $10 million or 10 times the taxpayer's basis in the stock. The exclusion is limited to individual investments and not the investments of a corporation. Effective for stock issued after February 17, 2009 and before January 1, 2011, ARRA increased the exclusion to 75 percent. The Administration proposes to increase the exclusion to 100 percent, effective for qualified small business stock issued after February 17, 2009; reporting requirements would be tightened to improve compliance.

Make research and experimentation (R&E) tax credit permanent.—A tax credit of 20 percent is provided for qualified research and experimentation expenditures above a base amount. An alternative simplified credit of 14 percent is also provided. These tax credits, which are scheduled to expire with respect to expenditures paid or incurred in taxable years beginning after December 31, 2009, are proposed to be permanently extended.

Expand net operating loss (NOL) carryback.—In general, an NOL may be carried back two years and carried forward 20 years to offset taxable income in such years. However, different rules apply with respect to NOLs arising in certain circumstances. ARRA expanded NOL carrybacks for eligible small businesses (a business meeting a $15 million gross receipts test), allowing these businesses to carry back applicable NOLs to any whole number of years greater than two and less than six. An applicable NOL is the taxpayer's NOL for any taxable year ending in 2008, or, if elected by the taxpayer, the NOL for any taxable year beginning in 2008. The Administration looks forward to working with the Congress to make the expanded NOL carryback period available to more taxpayers.

Modify Federal Aviation Administration (FAA) Financing

Starting in 2011, the Budget assumes the air traffic control system would be paid for by direct charges levied on users of the system. The FAA's current excise tax system is largely based on the price of airline tickets, and does not have a direct relationship between the taxes paid by users and the air traffic control services provided by the FAA. The Administration believes that the financing system should move toward a model where FAA's charges are based on their costs, system users pay their "fair share," and the FAA utilizes the funds directly to pay for the services that the users need and want. The Administration recognizes that there are alternative ways to achieve these objectives. Accordingly, the Administration will work with stakeholders and Congress to enact legislation that moves toward such a system. Under the potential scenario displayed in the budget, FAA would reduce aviation excise taxes and collect discretionary user charges for air traffic services. Note that, because of scoring conventions, the reduction in excise taxes reduces receipts, while the discretionary user charge offsets discretionary spending and is not counted toward receipts.

Continue Certain Expiring Provisions Through Calendar Year 2010

A number of temporary tax provisions that have been routinely extended are scheduled to expire before December 31, 2010. The Administration proposes to extend these provisions through December 31, 2010. These provisions include the optional deduction for State and local general sales taxes, Subpart F "active financing" and "look-through" exceptions, the exclusion from unrelated business income of certain payments to controlling exempt organizations, the new markets tax credit, the modified recovery period for qualified leasehold improvements and qualified restaurant property, incentives for empowerment and community renewal zones, credits for biodiesel and renewable diesel fuels, and several trade agreements, including the Generalized System of Preferences and the Caribbean Basin Initiative.

Other Revenue Changes and Loophole Closers

Reinstate Superfund taxes.—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 the nation's worst hazardous waste sites, are proposed to be reinstated effective January 1, 2011, and include the following: (1) a 9.7-cents-per-barrel excise tax on domestic and imported crude oil and petroleum products; (2) excise taxes on listed hazardous chemicals at rates that vary from 22 cents to $4.87 per ton; (3) excise taxes on imported substances that use as materials in their manufacture one or more of the listed hazardous chemicals; and (4) the corporate environmental income tax imposed at a rate of 0.12 percent on the amount by

which the modified AMT income of a corporation exceeds $2 million.

Tax carried interest as ordinary income.—A partnership does not pay income tax; instead, the income or loss flows through to the partners who must include such items on their individual income tax return. Certain partners receive a partnership interest, typically an interest in future profits, in exchange for services (commonly referred to as a "carried interest"). Current law taxes the recipient of a carried interest on the value at the time granted, which may be based on the value the partner would receive if the partnership were liquidated immediately (for example, if the interest is only in future profits, as if its value were zero). Because the partners, including partners who provide services, reflect their share of partnership items on their tax return in accordance with the character of the income at the partnership level, long-term capital gains and qualifying dividends attributable to carried interest may be taxed at a maximum 15-percent rate (the maximum tax rate on capital gains) rather than at ordinary income tax rates. The Administration proposes to designate any carried interest as a "services partnership interest" (SPI) and to tax a partner's share of an SPI that is not attributable to invested capital as ordinary income, regardless of the character of the income at the partnership level. In addition, the partner would be required to pay self-employment taxes on such income, and the gain recognized on the sale of an SPI that is not attributable to invested capital would generally be taxed as ordinary income, not as capital gain. However, any allocation of income or gain attributable to invested capital on the part of the partner would be taxed as ordinary income or capital gain based on its character to the partnership and any gain realized on a sale of the interest attributable to such partner's invested capital would be treated as capital gain or ordinary income as provided under current law.

Codify "economic substance" doctrine.—The economic substance doctrine is a judicial rather than statutory tax doctrine that has been used by the IRS and applied by the courts for many years to disallow tax benefits from transactions that do not meaningfully change a taxpayer's economic position, even if the transactions technically comply with the Internal Revenue Code. The Administration proposes to create a new provision in the tax code clarifying that a transaction must have both objective economic substance and a business purpose to satisfy the judicial economic substance doctrine. The new provision would address what constitutes objective economic effects and a substantial nontax business purpose. A 30-percent penalty would be imposed on any understatement of tax resulting from a transaction lacking economic substance, even when the taxpayer has reasonable cause for the understatement. The penalty would be reduced to 20 percent for transactions that are adequately disclosed on the tax return or a statement attached to the return. These proposed changes would be effective for transactions entered into after the date of enactment.

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 Administration proposes to repeal the use of the LIFO accounting method for Federal tax purposes, effective for taxable years beginning after December 31, 2011. Assuming inventory costs rise over time, taxpayers required to change from the LIFO method under the proposal generally would experience a permanent reduction in their deductions for cost of goods sold and a corresponding increase in their annual taxable income as older, cheaper inventory is taken into account in computing taxable income. Upon enactment, taxpayers required to change from the LIFO method also would be required to report their existing inventory at its first-in, first-out (FIFO) value in the year of change, causing a one-time increase in taxable income that would be recognized ratably over eight years.

Reform U.S international tax system.—The Administration proposes to reduce U.S. tax evasion and avoidance through a series of legislative reforms and enforcement measures, as described below:

Reform business entity classification rules.—The business entity classification rules as applied to foreign entities may be used to avoid U.S. tax, particularly in the case of a foreign entity that is disregarded for U.S. tax purposes as a result of those rules. Under the proposal, a disregarded entity election for a foreign entity would be available only if that entity has an owner that is not disregarded for U.S. tax purposes and that is organized under the laws of the same foreign country under the laws of which the foreign entity is created or organized.

Defer deduction of expenses, except R&E expenses, related to deferred income.—Under current law, a U.S. person that incurs expenses properly allocable and apportioned to foreign-source income may be able to deduct those expenses even if some or all of the foreign-source income is not subject to current U.S. taxation. To provide greater matching of the timing of deductions and recognition of income, the proposal would defer foreign-source deductions, other than research and experimentation expenditures, of a U.S. person to the extent the U.S. taxation of foreign-source income associated with those deductions is deferred.

Reform foreign tax credit.—Under the proposal, a taxpayer would be required to determine foreign tax credits and earnings and profits on a consolidated basis for all controlled foreign corporations (CFCs). Taxpayers would be subject to a limitation on foreign tax credits based on an average foreign tax rate imposed on the sum of the foreign-source income of the taxpayer and the unrepatriated income earned by the taxpayer's CFCs. In addition, separation of foreign tax and income would be prevented through the adoption of a matching rule.

Limit shifting of income through intangible property transfers.—The definition of intangible property for purposes of the special rules relating to transfers of intangibles by a U.S. person to a foreign corporation (section 367(d)) and the allocation of income and deductions among taxpayers (section 482) would be clarified to prevent inappropriate shifting of income outside the United States.

Limit earnings stripping by expatriated entities.—Under the proposal, the rules that limit the deductibility of interest paid to related persons subject to low or no U.S. tax on that interest would be amended to prevent inverted companies from using foreign-related-party debt to reduce inappropriately the U.S. tax on income earned from their U.S. operations.

Prevent repatriation of earnings in certain cross-border reorganizations.—A limitation on recognition of gain for certain qualified corporate reorganizations (section 356(a)(1)) can permit U.S. shareholders to repatriate previously-untaxed earnings and profits of foreign subsidiaries with minimal U.S. tax consequences. The proposal would repeal this limitation in reorganization transactions in which the acquiring corporation is foreign and the shareholder's exchange has the effect of the distribution of a dividend (within the meaning of section 356(a)(2)).

Repeal 80/20 company rules.—Under current law, if a U.S. corporation derives at least 80 percent of its gross income from an active foreign business (commonly referred to as an "80/20 company"), then all or a portion of the interest and dividends paid by the 80/20 company are treated as foreign-source and therefore are not subject to U.S. withholding tax. Because the rules that apply to 80/20 companies are subject to manipulation, they are proposed to be repealed.

Prevent the use of equity swaps to avoid dividend withholding taxes.—Income earned by foreign persons with respect to equity swaps that reference U.S. equities would be treated as arising from U.S. sources to the extent that the income is attributable to (or calculated by reference to) dividends paid by a domestic corporation. This proposal would provide clarity and would ensure that economically equivalent transactions are subject to the same tax treatment.

Modify tax rules for dual capacity taxpayers.—The foreign tax credit rules that apply to taxpayers that are subject to a foreign levy and that also receive (directly or indirectly) a specific economic benefit from the levying country (so-called "dual capacity" taxpayers) would be tightened.

Combat under-reporting of income through use of accounts and entities in offshore jurisdictions.—The Administration is concerned about the use of offshore accounts and entities by U.S. and foreign persons to evade U.S. tax. To reduce such evasion, the Administration proposes a series of measures to strengthen the information reporting and withholding systems that support U.S. taxation of income earned or held through offshore accounts or entities.

Require information reporting for rental property expense payments.—The Administration proposes to subject recipients of rental income from real estate to the same information reporting requirements applicable to taxpayers engaged in a trade or business. Under the proposal, recipients of rental income making payments of $600 or more to a service provider such as a plumber, painter or accountant in the course of earning rental income would be required to send an information return to the IRS and to the service provider. Exceptions to the reporting requirement would be made for particularly burdensome situations, such as for taxpayers (including members of the military) who rent their principal residence on a temporary basis, or for those who receive only small amounts of rental income per year.

Eliminate oil and gas company preferences.—Beginning in 2011, the Administration proposes to levy a tax on offshore oil and gas production and to repeal a number of existing tax preferences for domestic oil and gas producers, as described below:

Levy tax on certain offshore oil and gas production.—According to the Government Accountability Office, the return to the taxpayer from Outer Continental Shelf production is among the lowest in the world, despite other factors that make the U.S. a comparatively good place to invest in oil and gas development. In the interest of advancing important policy objectives, such as providing a more level playing field among producers, raising the return to the taxpayer, and encouraging sustainable domestic oil and gas production, the Administration is developing a proposal to impose an excise tax on certain oil and gas produced offshore in the future. The Administration looks forward to working with Congress to develop this proposal's details and enact it into law.

Repeal existing oil and gas preferences.—Current law provides a number of credits and deductions that are targeted towards certain oil and gas activities. The Administration proposes to repeal the following tax preferences available for oil and gas activities: (1) the enhanced oil recovery credit for eligible costs attributable to a qualified enhanced oil recovery project; (2) the credit for oil and gas produced from marginal wells; (3) the expensing of intangible drilling costs; (4) the deduction for costs paid or incurred for any tertiary injectant used as part of a tertiary recovery method; (5) the exception to passive loss limitations provided to working interests in oil and natural gas properties; (6) the use of percentage depletion with respect to oil and gas wells; (7) the ability to claim the domestic manufacturing deduction against income derived from the production of oil and gas; and (8) two-year amortization of independent producer's geological and geophysical expenditures, instead allowing amortization over the same seven-year period as for integrated oil and gas producers.

Eliminate advanced EITC.—Under current law, taxpayers eligible for the refundable EITC who have one or more qualifying children may elect to receive advanced

payment of the credit through their employer. Since advance payments have been unpopular among eligible taxpayers and since recent research shows evidence of extensive non-compliance by employers and workers, the Administration proposes that effective for taxable years beginning after December 31, 2009, taxpayers would no longer be able to receive an advance against their expected EITC through their employer. Taxpayers with positive tax liability could, however, continue to receive any non-refundable portion of the EITC during the year by adjusting their withholding.

Upper-Income Tax Provisions Dedicated to Deficit Reduction

Reinstate the 36-percent and 39.6-percent rates for those taxpayers with income over $250,000 (married filing a joint return) and $200,000 (single).—The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) split the 15-percent statutory individual income tax rate bracket of prior law into two tax rate brackets of 10 and 15 percent, and replaced the four remaining statutory individual income tax rate brackets of 28, 31, 36 and 39.6 percent with statutory tax rate brackets of 25, 28, 33 and 35 percent. When the tax rate brackets provided under EGTRRA expire on December 31, 2010, the Administration proposes to extend the tax rate brackets of 10, 15, 25 and 28 percent; to eliminate the tax rate brackets of 33 and 35 percent; and to reinstate the prior law tax rate brackets of 36 and 39.6 percent. These rate increases would apply to single taxpayers with income over $200,000 and to married taxpayers filing a joint return with income over $250,000 (at 2009 levels). The 28-percent tax rate bracket would be expanded so that taxpayers earning less than these amounts would not see their taxes rise as a result of the increased tax rate brackets.

Reinstate the personal exemption phaseout and limitation on itemized deductions for those taxpayers with income over $250,000 (married filing a joint return) and $200,000 (single).—Prior to the enactment of EGTRRA, the deduction for personal exemptions for the taxpayer and his or her dependents was phased out for taxpayers with AGI in excess of certain thresholds. In addition, the amount of otherwise allowable itemized deductions (other than medical expenses, investment interest, theft and casualty losses, and wagering losses) were reduced by three percent of AGI in excess of certain thresholds, but not by more than 80 percent. EGTRRA phased in the repeal of the phaseout of personal exemptions and the limitation on itemized deductions over a five-year period, 2006 through 2010. The Administration proposes to reinstate the limitations on personal exemptions and itemized deductions for single taxpayers with income over $200,000 and married taxpayers filing joint returns with income over $250,000 (at 2009 levels), effective for taxable years beginning after December 31, 2010.

Impose a 20-percent tax rate on capital gains and dividends for those taxpayers with income over $250,000 (married filing a joint return) and $200,000 (single).—Under the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA), the maximum tax rate on long-term capital gains was reduced from 20 percent to 15 percent for taxpayers in individual income tax rate brackets exceeding 15 percent, and from 10 percent to 5 percent (zero beginning in 2008) for lower-income taxpayers. JGTRRA also reduced the maximum tax rate on qualified dividends received by an individual shareholder to 15 percent for taxpayers in individual income tax rate brackets above 15 percent and to 5 percent (zero beginning in 2008) for lower-income taxpayers. Dividends had been taxed as ordinary income under prior law. The Administration proposes to increase the tax rate on qualified dividends and long-term capital gains to 20 percent for single taxpayers with income over $200,000 and for married taxpayers filing a joint return with income over $250,000 (at 2009 levels). The proposal would be effective for taxable years beginning after December 31, 2010. Lower-income taxpayers would be taxed at the rates in effect in 2009.

Climate Revenues

Climate revenues dedicated to climate policy (clean energy technologies) and to making work pay.—The Administration is developing a comprehensive energy and climate change plan to invest in clean energy, end the nation's addiction to oil, address the global climate crisis, and create new American jobs that cannot be outsourced. This program will be implemented through a cap-and-trade system, a policy approach that was used successfully to implement the acid rain program at much lower cost than the traditional government regulations and mandates of the past. Through a 100-percent auction to ensure that the biggest polluters do not enjoy windfall profits, this program will fund vital investments in clean energy research and development, adaptation and climate science of $15 billion per year beginning in 2012. Auction revenues also will be dedicated to covering the cost of permanently extending the making work pay tax credit, which provides tax relief to about 95 percent of all American workers and their families. Any additional revenues generated from an emission allowance auction will be used to compensate vulnerable households, communities and businesses for increased energy costs.

User Fees

Preserve cost-sharing of inland waterways capital costs.—In 1986, the Congress provided that commercial traffic on the inland waterways would be responsible for 50 percent of the capital costs of the locks and dams and other features that make barge transportation possible on the inland waterways. The current excise tax of 20 cents per gallon on fuel used in inland waterway transportation is not generating enough revenue to cover the required 50 percent of these costs. The Administration proposes to phase out this excise tax in stages and replace it with a lock usage fee. This fee is designed to improve

economic efficiency and preserve the landmark cost-sharing reform established by the Congress in 1986, while supporting investments in inland waterways construction, replacement, expansion, and rehabilitation.

Trade Initiatives

Promote trade.—The Administration is currently developing a plan of action to address the pending free trade agreements (FTAs), in consultation with Congress and our trading partners. Depending on progress, one or more of the pending FTAs could be implemented in 2010. Additionally, the President has announced his intention to establish Reconstruction Opportunity Zones (ROZs) in Afghanistan and the border regions of Pakistan. ROZs are a critical part of the Administration's broader counterterrorism strategy in these areas, designed to connect isolated regions to the global economy, create vital employment opportunities in territories prone to extremism and strengthen the rule of law. The creation of ROZs will encourage investment and economic development in these areas by granting duty-free entry to the United States for certain goods produced in designated territories under a framework that creates maximum opportunity and strengthens the rule of law. The Administration will work closely with Congress and private sector stakeholders to implement these important trade initiatives.

Other Initiatives

Implement unemployment insurance integrity legislation.—The Administration has a multi-part proposal to strengthen the financial integrity of the unemployment insurance (UI) system and to encourage the early reemployment of UI beneficiaries. The Administration's proposal will boost States' ability to recover benefit overpayments and deter tax evasion schemes by permitting them to use a portion of recovered funds to expand enforcement efforts in these areas, including identification of misclassified employees. In addition, the proposal would require States to impose a monetary penalty on UI benefit fraud, which would be used to reduce overpayments; require States to charge employers found to be at fault when their actions lead to overpayments; expand collection of delinquent UI overpayments and employer taxes through garnishment of Federal tax refunds; and improve the accuracy of hiring data in the National Directory of New Hires, which would reduce benefit overpayments. These efforts to strengthen the financial integrity of the UI system and encourage early reemployment of UI beneficiaries will keep State UI taxes down and improve the solvency of the State trust funds.

Revise terrorism risk insurance program.—The terrorism risk insurance program (TRIP), which was established under the Terrorism Risk Insurance Act of 2002, was expanded and extended through December 31, 2014 under the Terrorism Risk Insurance Program Reauthorization Act of 2007. The reauthorization expanded coverage to include acts of domestic terrorism and set up a mechanism for the Federal government to recoup 133 percent of Federal payments under the program, up to a maximum of $27.5 billion, through a surcharge imposed on insurance premiums. The Administration proposes to lessen Federal intervention in this insurance market and reduce the subsidy to private insurers (that is, increase the private sector share of losses). Beginning in 2011, after the economy is expected to stabilize, and then again in 2013, the proposal would increase the private insurer's deductible and co-payment, and the minimum qualifying size of a terrorist attack. The proposal removes coverage for acts of domestic terrorism and requires insurers to pay back only 100 percent rather than 133 percent of the Federal payments made under the program. Under the proposal TRIP expires December 31, 2014, consistent with current law.

Levy payments to Federal contractors with delinquent tax debt.—The Budget proposes two changes to the Department of the Treasury's debt collection procedures that will increase the amount of delinquent taxes collected from Federal contractors. While the IRS can initiate enforcement proceedings against delinquent tax filers in order to collect taxes owed, Treasury can also reduce a Government payment owed to a contractor to collect unpaid taxes. However, Treasury generally must wait until all debt collection administrative procedures are complete before reducing a Government payment. Typically, by the time this lengthy process is finished, Treasury has already paid the Federal contractor, thus resulting in a lost opportunity to collect taxes owed. Under the first proposal, Treasury will be allowed to reduce payments before all debt collection administrative procedures are complete, and will therefore collect more unpaid taxes. Further, pursuant to the American Jobs Creation Act of 2004, Treasury is authorized to levy 100 percent of Federal contractor payments in order to collect delinquent debt. However, the language contains a technical imperfection that has the unintended effect of limiting the levy to 15 percent of a payment. The second proposal will allow Treasury to levy up to 100 percent of a Federal contractor payment.

Implement program integrity allocation adjustments – IRS.—The Administration proposes a program integrity allocation adjustment of $890 million for the IRS. Allocation adjustments have been used by past administrations and Congresses to help protect increases above a base level for certain activities that generate benefits beyond programmatic costs. The adjustment permits specified program increases above the ceiling, or allocation limit, provided in the annual congressional appropriations process, but these increases are granted only if appropriations bills increase funding for the specified integrity purposes.

In previous years, the allocation adjustment applied to the total enforcement activity level, which included the entirety of the Enforcement account and over half of the Operations Support account. For 2010, the Administration proposes to apply the allocation adjust-

ment separately to the Enforcement account base ($600 million of the allocation adjustment) and the proportion of the Operations Support appropriation that directly supports Enforcement account activities ($290 million of the allocation adjustment). The Administration proposes this adjusted structure because it mitigates budget execution problems that may arise independent of the Administration's request. Further, the structure applies the allocation adjustment to the enforcement resources most directly involved in generating return-on-investment in the form of additional receipts.

Within the enforcement activity funding, IRS will continue initiatives implemented with 2009 appropriations and establish new initiatives that will bring in at least an additional $2 billion in receipts for each year of work, once new hires reach full productivity in 2012. Not only will these resources help the IRS continue to increase the roughly $55 billion in enforcement receipts each year, but they will also help close the tax gap, defined as the difference between taxes owed and those paid on time. The 2010 allocation adjustment will be used to target international tax compliance and help the IRS reduce that specific portion of the tax gap.

Health Reform Reserve Fund

The Administration proposes to set aside a reserve fund of more than $630 billion over 10 years dedicated to financing reforms to the American health care system. The Administration recognizes that this is not sufficient to fully fund comprehensive reform, but it is a crucial first step in the effort. The proposed reserve fund would be financed by a combination of specific health care savings and a rebalancing of the tax code as described below:

Limit the tax rate at which itemized deductions reduce tax liability to 28 percent.—The Administration proposes to limit the tax rate at which high-income taxpayers can take itemized deductions to a maximum of 28 percent, affecting only single taxpayers with income over $200,000 and married taxpayers filing a joint return with income over $250,000 (at 2009 levels). The proposed limitation would be effective for taxable years beginning after December 31, 2010.

Reduce the tax gap/improve compliance and make reforms to close tax loopholes.—The Administration has a number of legislative proposals intended to reduce the tax gap/improve compliance and make certain reforms in domestic tax laws to close tax loopholes, as described below:

Reduce the tax gap/improve compliance.—The tax gap generally is the difference between the amount owed under the tax law and the amount actually paid on time. The Administration proposes to help reduce the tax gap through proposals that would expand information reporting, improve compliance by businesses, strengthen tax administration, and expand penalties.

Information reporting proposals would apply to certain life insurance contracts, to payments to corporations, and to payments from Government entities. Additional proposals would require a certified Taxpayer Identification Number (TIN) from contractors and would increase penalties with respect to information returns.

Proposals to improve compliance by businesses would require electronic filing by certain large organizations and implement standards clarifying when employee leasing companies can be held liable for their clients' Federal employment taxes.

Tax administration proposals would: (1) expand IRS access to information in the National Directory of New Hires for tax administration purposes; (2) make repeated willful failure to file a tax return a felony; (3) facilitate tax compliance with local jurisdictions; (4) extend statutes of limitations where State tax adjustments affect Federal tax liability; (5) improve the investigative disclosure statute; (6) expand electronic filing requirements for tax return preparers; (7) repeal the requirement of a partial payment with an application for an offer-in-compromise; and (8) allow assessment of criminal restitution as tax.

Proposals to expand penalties would impose a penalty on failure to comply with electronic filing requirements and clarify that the bad check penalty applies to electronic checks and other forms of payment.

Make reforms to close tax loopholes.—The Administration also proposes to make certain reforms in domestic tax laws to close loopholes in the following areas: (1) financial institutions and products; (2) insurance companies and products; (3) tax accounting methods; and (4) estate and gift taxation. The first category of proposals would require accrual of income on forward sale of corporate stock, require ordinary treatment of income from day-to-day dealer activities, and modify the definition of "control" for purposes of the limit on deductions related to a repurchase of debt. The second category would modify rules that apply to sales of life insurance contracts, modify the dividends-received deduction for life insurance company separate accounts, and expand the pro rata interest expense disallowance. Proposals in the third category would repeal the lower of cost or market inventory accounting method and deny the deduction for punitive damages. The fourth category of proposals would require consistent valuation for transfer and income tax purposes, modify rules on valuation discounts, and require a minimum term for grantor retained annuity trusts.

Modify alternative fuel mixture credit.—Current law provides a credit for alternative fuels sold for use or used as fuel in a motor vehicle or motorboat and for alternative fuel mixtures (a mixture of alternative fuel and a taxable fuel such as diesel fuel) sold for use or used as a fuel (whether or not in a motor vehicle or motorboat). A person with insufficient tax liability may file a claim for a payment equal to the credit. Alternative fuels include liquid byproducts derived from the processing of paper or pulp (known as "black liquor" when derived from the kraft process), which paper companies burn to produce

energy in their mills. Certain paper companies, to take advantage of the alternative fuel mixture credit, have recently begun mixing diesel with black liquor, burning the mixture, and claiming the alternative fuel mixture credit (this being a mix of an alternative fuel, black liquor, and diesel, a taxable fuel). If this is allowed to continue, it would result in substantial revenue losses and represent a windfall to the paper industry. The Administration proposes to limit the credit for mixtures containing alternative fuel derived from the processing of paper or pulp to mixtures that are sold for use or used as fuel in a motor vehicle or motorboat, which would exclude black liquor burned in the paper mills from eligibility. The change would be effective on the date of enactment.

Table 17–3. EFFECT OF PROPOSALS
(in millions of dollars)

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010-14	2010-19
Tax Cuts for Families and Individuals:													
Provide making work pay tax credit [1]	......	......	–31,080	–61,668	–61,949	–62,233	–62,658	–63,256	–63,626	–64,052	–64,488	–216,930	–535,010
Expand earned income tax credit [1]	......	......	–17	–2,666	–2,601	–2,575	–2,610	–2,659	–2,708	–2,762	–2,821	–7,859	–21,419
Expand refundability of the child tax credit [1]	......	......	......	–8,822	–8,707	–8,674	–8,766	–8,859	–8,944	–9,039	–9,142	–26,203	–70,953
Expand saver's credit and provide automatic enrollment in IRAs [1]	......	......	–232	–3,153	–5,054	–6,366	–7,451	–8,363	–9,083	–9,689	–10,226	–14,805	–59,617
Provide American opportunity tax credit [1]	......	......	–594	–4,350	–4,931	–5,526	–5,879	–6,316	–6,689	–6,985	–7,246	–15,401	–48,516
Total, tax cuts for families and individuals	......	......	–31,923	–80,659	–83,242	–85,374	–87,364	–89,453	–91,050	–92,527	–93,923	–281,198	–735,515
Tax Cuts for Businesses:													
Eliminate capital gains taxation on small businesses	......	......	......	......	......	–134	–344	–700	–1,187	–1,562	–1,908	–134	–5,835
Make research and experimentation tax credit permanent	......	–3,111	–5,486	–6,142	–6,785	–7,384	–7,960	–8,530	–9,103	–9,680	–10,281	–28,908	–74,462
Expand net operating loss carryback	–27,800	–35,700	10,700	10,200	7,900	5,600	3,900	2,700	1,800	1,300	900	–1,300	9,300
Total, tax cuts for businesses	–27,800	–38,811	5,214	4,058	1,115	–1,918	–4,404	–6,530	–8,490	–9,942	–11,289	–30,342	–70,997
Modify Federal Aviation Administration Financing [2, 3]	......	......	–7,225	–7,599	–7,980	–8,260	–8,559	–8,869	–9,190	–9,527	–9,873	–31,064	–77,082
Continue Certain Expiring Provisions Through Calendar Year 2010 [1, 3]	–28	–6,402	–5,449	–668	–593	–617	–782	–860	–588	–595	–689	–13,729	–17,243
Other Revenue Changes and Loophole Closers:													
Reinstate Superfund taxes [3]	......	......	1,197	1,632	1,755	1,834	1,905	1,979	2,056	2,149	2,250	6,418	16,757
Tax carried interest as ordinary income	......	......	2,585	3,811	3,860	3,463	2,899	2,345	1,869	1,479	1,167	13,719	23,478
Codify "economic substance" doctrine	5	58	112	202	308	426	546	642	724	809	901	1,106	4,728
Repeal LIFO method of accounting for inventories	......	......	......	2,992	6,748	8,082	8,431	8,590	8,545	8,630	9,036	17,822	61,054
Reform U.S. international tax system:													
Reform business entity classification rules	......	......	4,932	8,556	9,147	9,597	9,917	10,267	10,741	11,352	12,000	32,232	86,509
Defer deduction of expenses, except R&E expenses, related to deferred income	......	......	3,754	6,321	6,434	6,545	6,731	6,992	7,311	7,732	8,230	23,054	60,050
Reform foreign tax credit: Determine the foreign tax credit on a pooling basis	......	......	1,531	2,578	2,624	2,669	2,745	2,852	2,982	3,154	3,357	9,402	24,492
Reform foreign tax credit: Prevent splitting of foreign income and foreign taxes	......	......	999	1,792	1,968	2,095	2,194	2,277	2,348	2,408	2,461	6,854	18,542
Limit shifting of income through intangible property transfers	......	......	37	102	169	240	314	391	471	556	644	548	2,924
Limit earnings stripping by expatriated entities	......	......	70	120	126	132	139	146	153	161	169	448	1,216
Prevent repatriation of earnings in certain cross-border reorganizations	......	......	19	31	32	33	34	35	36	38	39	115	297
Repeal 80/20 company rules	......	......	86	121	129	135	139	144	151	160	169	471	1,234
Prevent the use of equity swaps to avoid dividend withholding taxes	......	......	373	281	126	99	100	101	104	109	114	879	1,407
Modify tax rules for dual capacity taxpayers	......	......	260	449	471	492	515	538	562	588	615	1,672	4,490
Combat under-reporting of income through use of accounts and entities in offshore jurisdictions	......	2,482	1,617	–53	–115	449	769	843	876	914	953	4,380	8,735
Subtotal, reform U.S. international tax system	......	2,482	13,678	20,298	21,111	22,486	23,597	24,586	25,735	27,172	28,751	80,055	209,896
Require information reporting for rental property expense payments	......	175	265	280	290	305	315	330	340	360	375	1,315	3,035
Eliminate oil and gas company preferences:													
Levy tax on certain offshore oil and gas production	......	......	500	500	500	600	600	600	600	700	700	2,100	5,300
Repeal enhanced oil recovery credit [4]	......	......	......	......	......	......	......	......	......	......	......	......	......
Repeal credit for oil and gas produced from marginal wells [4]	......	......	......	......	......	......	......	......	......	......	......	......	......
Repeal expensing of intangible drilling costs	......	......	347	595	526	395	269	226	237	266	488	1,863	3,349
Repeal deduction for tertiary injectants	......	......	5	9	9	8	7	6	6	6	6	31	62
Repeal exception to passive loss limitations for working interests in oil and natural gas properties	......	......	2	5	6	6	6	6	6	6	6	19	49
Repeal percentage depletion for oil and natural gas wells	......	......	316	752	925	960	996	1,033	1,065	1,091	1,113	2,953	8,251
Repeal domestic manufacturing deduction for oil and natural gas companies	......	......	757	1,310	1,392	1,464	1,531	1,600	1,670	1,745	1,823	4,923	13,292
Increase geological and geophysical amortization period for independent producers to seven years	......	......	41	154	240	233	187	140	91	56	47	668	1,189
Subtotal, eliminate oil and gas company preferences	......	......	1,968	3,325	3,598	3,666	3,596	3,611	3,675	3,870	4,183	12,557	31,492

Table 17–3. EFFECT OF PROPOSALS—Continued
(in millions of dollars)

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010-14	2010-19
Eliminate advanced earned income tax credit [1]	......	125	76	77	78	81	83	85	87	89	91	437	872
Total, other revenue changes and loophole closers	5	2,840	19,881	32,617	37,748	40,343	41,372	42,168	43,031	44,558	46,754	133,429	351,312
Upper-Income Tax Provisions Dedicated to Deficit Reduction:													
Reinstate the 36-percent and 39.6-percent rates for those taxpayers with income over $250,000 (married) and $200,000 (single)	......	......	14,584	27,625	30,798	33,769	36,489	39,312	42,366	45,502	49,115	106,776	319,560
Reinstate the personal exemption phaseout and limitation on itemized deductions for those taxpayers with income over $250,000 (married) and $200,000 (single)	......	......	6,958	15,241	17,428	19,101	20,682	22,264	23,850	25,432	27,071	58,728	178,027
Impose a 20-percent tax rate on capital gains and dividends for those taxpayers with income over $250,000 (married) and $200,000 (single)	–182	600	6,641	3,672	7,412	12,060	14,832	15,970	17,495	18,873	20,235	30,385	117,790
Total, upper-income tax provisions dedicated to deficit reduction	–182	600	28,183	46,538	55,638	64,930	72,003	77,546	83,711	89,807	96,421	195,889	615,377
Climate Revenues:													
Dedicated to climate policy (clean energy technologies)	......	......	......	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	45,000	120,000
Dedicated to making work pay tax credit	......	......	......	61,668	61,949	62,233	62,658	63,256	63,626	64,052	64,488	185,850	503,930
Total, climate revenues [5]	......	......	......	76,668	76,949	77,233	77,658	78,256	78,626	79,052	79,488	230,850	623,930
User Fees:													
Preserve cost-sharing of inland waterways capital costs [3]	......	75	100	68	79	89	156	155	183	182	180	411	1,267
Trade Initiatives:													
Promote trade [3]	......	......	–2	–5	–9	–13	–18	–25	–30	–35	–37	–29	–174
Other Initiatives:													
Implement unemployment insurance integrity legislation [3 6]	......	......	34	29	–20	–4	–166	–168	–174	–1,023	–413	39	–1,905
Revise terrorism risk insurance program [6]	......	......	–39	–493	–150	–317	–511	–576	–522	–416	–285	–999	–3,309
Levy payments to Federal contractors with delinquent tax debt:													
Improve debt collection administrative procedures	......	77	115	119	124	109	113	118	122	127	132	544	1,156
Increase levy authority to 100 percent for vendor payments	......	61	87	86	90	78	82	85	88	92	96	402	845
Subtotal, levy payments to Federal contractors with delinquent tax debt. [6]	......	138	202	205	214	187	195	203	210	219	228	946	2,001
Implement program integrity allocation adjustments - IRS [6]	......	290	1,119	2,348	3,864	5,729	1,460	617	462	371	380	13,350	16,640
Total, other initiatives	......	428	1,316	2,089	3,908	5,595	978	76	–24	–849	–90	13,336	13,427
Total, effect of proposals	–28,005	–41,270	10,095	73,107	83,613	92,008	91,040	92,464	96,179	100,124	106,942	217,553	704,302

HEALTH REFORM RESERVE FUND

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010-14	2010-19
Limit the tax rate at which itemized deductions reduce tax liability to 28 percent	......	......	9,241	24,945	27,687	29,647	31,386	33,091	34,911	36,873	38,878	91,520	266,659
Reduce the tax gap/improve compliance and make reforms to close tax loopholes:													
Reduce the tax gap/improve compliance:													
Expand information reporting	......	139	758	948	1,054	1,108	1,173	1,222	1,282	1,347	1,414	4,007	10,445
Improve compliance by businesses	......	3	5	5	5	6	6	6	7	7	7	24	57
Strengthen tax administration	......	8	13	15	17	17	19	20	22	22	22	70	175
Expand penalties	......	1	2	2	2	4	4	4	5	6	6	11	36
Make reforms to close tax loopholes:													
Financial institutions and products	59	254	383	341	367	395	425	455	483	512	542	1,740	4,157
Insurance companies and products	......	318	758	1,156	1,302	1,370	1,422	1,492	1,566	1,638	1,707	4,904	12,729
Tax accounting methods	......	......	27	984	1,914	1,196	1,207	268	279	292	304	4,121	6,471
Modify estate and gift tax valuation discounts and other reforms	......	736	1,615	1,837	2,065	2,303	2,556	2,822	3,103	3,403	3,718	8,556	24,158
Subtotal, reduce the tax gap/improve compliance and make reforms to close tax loopholes	59	1,459	3,561	5,288	6,726	6,399	6,812	6,289	6,747	7,227	7,720	23,433	58,228
Modify alternative fuel mixture credit [3]	533	702	......	......	......	......	......	......	......	......	......	702	702
Total, health reform reserve fund	592	2,161	12,802	30,233	34,413	36,046	38,198	39,380	41,658	44,100	46,598	115,655	325,589

Table 17–3. EFFECT OF PROPOSALS—Continued
(in millions of dollars)

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010-14	2010-19
[1] This proposal affects both receipts and outlays. Both effects are shown here. The outlay effects included in these estimates are listed below:													
Provide making work pay tax credit	......	......	703	20,749	20,448	20,214	20,194	20,267	20,204	20,239	20,295	62,114	163,313
Expand earned income tax credit	......	......	......	2,599	2,536	2,510	2,547	2,596	2,644	2,697	2,755	7,645	20,884
Expand refundability of the child tax credit	......	......	......	8,822	8,707	8,674	8,766	8,859	8,944	9,039	9,142	26,203	70,953
Expand saver's credit and automatic enrollment in IRAs	......	......	89	748	835	837	859	890	913	932	956	2,509	7,059
Provide American opportunity tax credit	......	......	......	1,860	1,939	2,018	2,162	2,335	2,434	2,489	2,673	5,817	17,910
Continue certain expiring provisions through calendar year 2010	......	62	21	......	......	......	......	......	......	......	......	83	83
Eliminate advanced earned income tax credit	......	–125	–76	–77	–78	–81	–83	–85	–87	–89	–91	–437	–872
Total, outlay effects of receipt proposals	......	–63	737	34,701	34,387	34,172	34,445	34,862	35,052	35,307	35,730	103,934	279,330

[2] The Budget assumes that some aviation excise taxes are modified and replaced with direct user charges. The estimated cost of reducing the excise taxes is reflected here. The user charges would be considered discretionary and offset the discretionary budget authority and outlays.

[3] Net of income offsets.

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

[5] Shown here are those proceeds from auctioning emission allowances that are reserved for clean energy technology initiatives and to compensate families through the making work pay tax credit. These proceeds are classified as receipts, though they could alternatively be considered offsets to outlays. Any additional revenue will be used to compensate vulnerable households, communities and businesses for increased energy costs.

[6] The receipt effect of a spending initiative.

TABLE 17–4. RECEIPTS BY SOURCE

(In millions of dollars)

Source	2008 Actual	Estimate										
		2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Individual income taxes:												
Federal funds	1,145,747	953,075	1,050,455	1,210,363	1,372,339	1,483,646	1,586,447	1,684,023	1,780,366	1,883,374	1,992,023	2,104,583
Legislative proposal, not subject to PAYGO	......	......	290	1,119	2,348	3,864	5,729	1,460	617	462	371	380
Legislative proposal, subject to PAYGO	......	–69	686	–81	6,507	13,370	20,496	25,313	28,346	32,271	36,542	41,665
Total, Individual income taxes	1,145,747	953,006	1,051,431	1,211,401	1,381,194	1,500,880	1,612,672	1,710,796	1,809,329	1,916,107	2,028,936	2,146,628
Corporation income taxes:												
Federal funds:												
Federal funds	304,346	174,687	220,547	288,363	347,295	384,914	388,772	419,872	438,018	457,123	480,507	504,327
Legislative proposal, subject to PAYGO	......	–27,929	–41,614	16,654	29,499	31,061	30,270	29,190	28,611	28,610	29,208	30,415
Total, Federal funds	304,346	146,758	178,933	305,017	376,794	415,975	419,042	449,062	466,629	485,733	509,715	534,742
Trust funds:												
Legislative proposal, subject to PAYGO	......	......	......	754	1,024	1,130	1,196	1,247	1,297	1,352	1,419	1,490
Total, Corporation income taxes	304,346	146,758	178,933	305,771	377,818	417,105	420,238	450,309	467,926	487,085	511,134	536,232
Social insurance and retirement receipts (trust funds):												
Employment and general retirement:												
Old-age survivors insurance (off-budget)	562,519	559,822	584,103	614,077	646,954	686,543	720,596	751,425	791,658	823,410	859,102	896,401
Legislative proposal, subject to PAYGO	......	......	–46	625	686	727	754	805	831	863	1,005	956
Disability insurance (off-budget)	95,527	95,048	99,174	104,277	109,860	116,583	122,365	127,601	134,432	139,824	145,886	152,219
Legislative proposal, subject to PAYGO	......	......	–8	106	116	123	128	136	141	146	171	162
Hospital insurance	193,980	191,535	196,163	209,902	222,265	235,436	247,275	257,893	271,710	282,687	295,076	307,986
Legislative proposal, subject to PAYGO	......	......	–13	173	188	200	207	220	229	236	275	262
Railroad retirement:												
Social security equivalent account	2,029	1,962	1,958	1,996	2,050	2,093	2,134	2,171	2,211	2,251	2,293	2,339
Rail pension & supplemental annuity	2,404	2,359	2,338	2,357	2,566	2,790	2,878	2,933	2,982	3,037	3,231	3,471
Total, Employment and general retirement	856,459	850,726	883,669	933,513	984,685	1,044,495	1,096,337	1,143,184	1,204,194	1,252,454	1,307,039	1,363,796
On-budget	198,413	195,856	200,446	214,428	227,069	240,519	252,494	263,217	277,132	288,211	300,875	314,058
Off-budget	658,046	654,870	683,223	719,085	757,616	803,976	843,843	879,967	927,062	964,243	1,006,164	1,049,738
Unemployment insurance:												
Deposits by States [1]	32,217	36,721	44,897	50,584	55,570	56,775	55,878	54,833	51,147	50,247	50,820	53,911
Legislative proposal, not subject to PAYGO	......	......	......	2	–7	–53	–118	–234	–234	–194	–357	–141
Legislative proposal, subject to PAYGO	......	......	......	40	43	28	27	26	24	23	23	24
Federal unemployment receipts [1]	7,216	7,217	6,068	5,876	7,604	9,419	10,660	11,159	8,834	8,712	7,560	8,445
Legislative proposal, not subject to PAYGO	......	......	......	......	......	......	87	......	......	–46	–944	–399
Legislative proposal, subject to PAYGO	......	......	1,296	530	......	......	......	......	......	......	......	......
Railroad unemployment receipts [1]	94	92	103	130	153	138	89	75	111	143	133	106
Total, Unemployment insurance	39,527	44,030	52,364	57,162	63,363	66,307	66,623	65,859	59,882	58,885	57,235	61,946
Other retirement:												
Federal employees retirement-employee share	4,125	4,435	4,311	4,132	3,940	3,771	3,630	3,489	3,391	3,311	3,255	3,213
Non-Federal employees retirement [2]	44	26	26	23	20	19	19	19	19	19	19	19
Total, Other retirement	4,169	4,461	4,337	4,155	3,960	3,790	3,649	3,508	3,410	3,330	3,274	3,232
Total, Social insurance and retirement receipts	900,155	899,217	940,370	994,830	1,052,008	1,114,592	1,166,609	1,212,551	1,267,486	1,314,669	1,367,548	1,428,974
On-budget	242,109	244,347	257,147	275,745	294,392	310,616	322,766	332,584	340,424	350,426	361,384	379,236
Off-budget	658,046	654,870	683,223	719,085	757,616	803,976	843,843	879,967	927,062	964,243	1,006,164	1,049,738

TABLE 17–4. RECEIPTS BY SOURCE—CONTINUED
(In millions of dollars)

Source	2008 Actual	Estimate										
		2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Excise taxes:												
Federal funds:												
Alcohol taxes	9,283	9,091	9,699	9,808	9,815	9,764	9,794	9,837	9,878	9,913	10,030	10,121
Legislative proposal, subject to PAYGO	......	......	–62	–21	......	......	......	......	......	......	......	......
Tobacco taxes	7,639	12,709	18,613	18,381	18,173	17,972	17,812	17,632	17,467	17,301	17,132	16,928
Transportation fuels tax	–5,127	–5,981	–5,647	–1,580	213	224	228	227	230	230	231	231
Legislative proposal, subject to PAYGO	......	......	–1,094	–234	......	......	......	......	......	......	......	......
Telephone and teleype services	1,048	1,020	705	439	273	153	116	109	104	102	101	101
Other Federal fund excise taxes	2,883	–703	242	1,376	1,437	1,509	1,577	1,644	1,715	1,780	1,847	1,913
Legislative proposal, subject to PAYGO	......	......	–89	471	500	500	600	600	600	600	700	700
Total, Federal funds	15,726	16,136	22,367	28,640	30,411	30,122	30,127	30,049	29,994	29,926	30,041	29,994
Trust funds:												
Highway	36,385	35,998	37,535	38,236	38,954	39,880	40,620	41,431	42,153	42,519	42,843	43,256
Airport and airway	11,992	11,282	11,697	12,414	13,424	14,490	15,345	16,062	16,775	17,511	18,261	18,986
Legislative proposal, subject to PAYGO	......	......	......	–9,634	–10,131	–10,639	–11,013	–11,411	–11,824	–12,254	–12,701	–13,165
Sport fish restoration and boating safety	595	574	587	602	618	633	648	664	681	701	718	736
Tobacco assessments	1,140	960	960	960	960	960	960	960	960	960	960	960
Black lung disability insurance	653	371	670	678	687	691	695	701	711	714	722	461
Inland waterway	88	84	86	87	88	90	90	91	92	92	94	96
Legislative proposal, subject to PAYGO	......	......	......	......	–44	–45	–90	–91	–92	–92	–94	–96
Hazardous substance superfund (Legislative proposal, subject to PAYGO)	......	......	......	591	810	834	852	877	910	939	972	1,014
Oil spill liability	333	463	412	373	352	339	332	335	346	388	415	439
Vaccine injury compensation	251	228	238	243	248	250	253	256	259	261	264	266
Leaking under ground storage tank	171	184	193	194	197	200	202	204	206	209	211	210
Total, Trust funds	51,608	50,144	52,378	44,744	46,163	47,683	48,894	50,079	51,177	51,948	52,665	53,163
Total, Excise taxes	67,334	66,280	74,745	73,384	76,574	77,805	79,021	80,128	81,171	81,874	82,706	83,157
Estate and gift taxes:												
Federal funds	28,844	26,341	19,809	21,189	22,488	24,221	25,045	26,671	28,549	30,537	32,688	35,002
Legislative proposal, subject to PAYGO	......	......	–1	......	......	......	......	......	......	......	......	......
Total, Estate and gift taxes	28,844	26,341	19,808	21,189	22,488	24,221	25,045	26,671	28,549	30,537	32,688	35,002
Customs duties:												
Federal funds:												
Federal funds	26,029	22,802	23,515	27,493	32,118	35,733	38,530	41,239	43,761	45,535	46,849	48,206
Legislative proposal, subject to PAYGO	......	–7	–753	–324	–6	–11	–17	–24	–34	–41	–47	–50
Total, Federal funds	26,029	22,795	22,762	27,169	32,112	35,722	38,513	41,215	43,727	45,494	46,802	48,156
Trust funds:												
Trust funds	1,539	1,147	1,149	1,341	1,537	1,683	1,812	1,945	2,065	2,156	2,244	2,349
Total, Customs duties	27,568	23,942	23,911	28,510	33,649	37,405	40,325	43,160	45,792	47,650	49,046	50,505
Miscellaneous receipts:												
Federal funds:												
Miscellaneous taxes	559	563	567	572	577	582	587	592	598	604	611	616
Deposit of earnings, Federal Reserve System	33,598	24,894	27,533	33,961	38,209	39,148	41,713	43,570	45,214	46,938	48,890	50,735
Fees for permits and regulatory and judicial services	10,864	10,933	11,330	11,687	12,512	12,441	12,790	13,081	13,233	13,235	13,206	13,193
Legislative proposal, subject to PAYGO	......	......	......	–39	–493	–150	–317	–511	–576	–522	–416	–285
Fines, penalities, and forfeitures	4,201	3,953	3,248	3,356	3,356	3,356	3,356	3,356	3,356	3,356	3,356	3,356
Gifts and contributions	13	3	3	3	3	3	3	3	3	3	3	3
Refunds and recoveries	–47	–42	–75	–106	–80	–51	–33	–32	–32	–32	–32	–32
Total, Federal funds	49,188	40,304	42,606	49,434	54,084	55,329	58,099	60,059	61,796	63,582	65,618	67,586

TABLE 17–4. RECEIPTS BY SOURCE—CONTINUED
(In millions of dollars)

Source	2008 Actual	Estimate										
		2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Trust funds:												
United Mine Workers of America, combined benefit fund	76	69	47	28	26	23	21	19	17	15	13	12
Defense cooperation	4	35	35	35	35	35	35	35	35	35	35	35
Inland waterway (Legislative proposal, subject to PAYGO)	......	......	75	100	100	112	156	224	224	252	252	252
Fines, penalities, and forfeitures	742	456	455	457	460	461	459	461	461	462	462	462
Gifts and contributions	314	240	223	213	218	218	205	206	206	207	208	209
Refunds and recoveries	8	6	6	6	6	6	6	6	6	6	6	6
Total, Trust funds	1,144	806	841	839	845	855	882	951	949	977	976	976
Total, Miscellaneous receipts	50,332	41,110	43,447	50,273	54,929	56,184	58,981	61,010	62,745	64,559	66,594	68,562
Climate revenues (Legislative proposal, subject to PAYGO) 3	......	......	......	......	76,668	76,949	77,233	77,658	78,256	78,626	79,052	79,488
Total, budget receipts	2,524,326	2,156,654	2,332,645	2,685,358	3,075,328	3,305,141	3,480,124	3,662,283	3,841,254	4,021,107	4,217,704	4,428,548
On-budget	1,866,280	1,501,784	1,649,422	1,966,273	2,317,712	2,501,165	2,636,281	2,782,316	2,914,192	3,056,864	3,211,540	3,378,810
Off-budget	658,046	654,870	683,223	719,085	757,616	803,976	843,843	879,967	927,062	964,243	1,006,164	1,049,738

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

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

[3] Shown here are those proceeds from auctioning emission allowances that are reserved for clean energy technology initiatives and to compensate families through the making work pay tax credit. These proceeds are classified as receipts, though they could alternatively be considered offsets to outlays. Any additional revenue will be used to compensate vulnerable households, communities and businesses for increased energy costs.

18. USER CHARGES AND OTHER COLLECTIONS

In addition to collecting taxes and other receipts by exercising its sovereign power, as discussed in Chapter 17 of this volume, "Federal Receipts," the Federal Government collects income from the public from market-oriented activities and regulatory activities. These collections are classified as user charges or user fees[1], and include the sale of postage stamps and electricity, charges for admission to national parks, premiums for deposit insurance, and proceeds from the sale of assets, such as the right to extract oil from the Outer Continental Shelf.

Laws that authorize user charges, in combination with budget concepts, determine whether a user charge is classified as an offsetting collection, an offsetting receipt or a governmental receipt. Almost all user charges are classified as "offsetting collections" or "offsetting receipts," as shown in Table 18–1. The budget refers to these amounts as "offsetting" because they are subtracted from gross outlays rather than added to taxes on the receipts side of the budget. The purpose of this treatment is to produce budget totals for receipts, outlays, and budget authority that reflect the amount of resources allocated by the Government directly, through collective political choice, rather than through the market.[2] As also shown in Table 18–1, some user charges are classified as governmental receipts and are on the receipts side of the budget.

Offsetting collections are credited to expenditure accounts and offsetting receipts are credited to receipt accounts. Offsetting collections are usually authorized to be spent for the purposes of the account without further action by the Congress. Offsetting receipts may or may not be designated for a specific purpose, depending on the legislation that authorizes them. When designated for a particular purpose, the authorizing legislation may either authorize the offsetting receipts to be spent without further action by the Congress or require the offsetting receipts to be appropriated in annual appropriations acts before being spent. When not designated for a particular purpose, offsetting receipts are credited to the general fund and cannot be spent without further action by the Congress.

Offsetting collections and offsetting receipts include most user charges as well as some amounts that are not user charges, such as interest income. As shown in Tables 18–1 and 18–2, total offsetting collections and offsetting receipts from the public are estimated to be $608.9 billion in 2010, and total user charges are estimated to be $366.4 billion.

The first section of this chapter discusses user charges and the Administration's user charge proposals. The second section displays more information on offsetting collections and offsetting receipts.

[1] The term "user charge" is used in OMB Circular No. A–11, "Preparation, Submission, and Execution of the Budget;" OMB Circular No. A–25, "User Charges;" and Chapter 25 of the volume, "The Budget System and Concepts." In common usage, the terms "user charge" and "user fee" are often used interchangeably and in *A Glossary of Terms Used in the Federal Budget Process*, GAO provides the same definition for both terms. The term "user charge" is generally used throughout this chapter and has the same meaning as the term "user fee."

[2] Showing collections from business-type transactions as offsets on the spending side of the budget follows the concept recommended by the *Report of the President's Commission on Budget Concepts in 1967* and is discussed in Chapter 26 of this volume: "The Budget System and Concepts."

Table 18–1. TOTAL USER CHARGES
(in billions)

	Actual 2008	Estimate 2009	Estimate 2010
Total user charges:			
Offsetting collections and offsetting receipts from the public	243.6	344.5	362.9
Governmental receipts	3.6	3.1	3.4
Total, User charges	247.3	347.6	366.4

USER CHARGES

I. Introduction and Background

The Federal Government often assesses user charges on those who benefit directly from a particular activity or those subject to regulation. Based on the definition used in this chapter, Table 18–3 shows that user charges were $247.3 billion in 2008, and are estimated to increase to $347.6 billion in 2009 and $366.4 billion in 2010, and average $381.0 billion per year from 2011–19, including the user charge proposals that are shown in Table 18–4. Table 18–4 shows that the Administration's user charge proposals would decrease user charges by an estimated $14.7 billion in 2010 (because of deposit and credit union share insurance proposals, discussed below) and increase user charges by an average of $18.2 billion per year from 2011–19.

Definition. User charges are fees, charges, and assessments levied on individuals or organizations directly benefiting from or subject to regulation by a Government program or activity. In addition, the payers of the charge must be limited to those benefiting from or subject to regulation by the program or activity, and may not include the general public. Generally, user charges do not apply to a broad segment of the public such as those who pay income taxes or customs duties.

Examples of business-type or market-oriented user charges include charges for the sale of postal services (e.g., stamps) and electricity sold by the Tennessee Valley Authority, proceeds from the sale of goods by defense commissaries, payments for Medicare voluntary supplemental medical insurance, life insurance premiums for veterans, recreation fees for parks, and proceeds from the sale of assets (e.g., property, plant, and equipment) and natural resources (e.g., timber, oil, and minerals).

Examples of regulatory and licensing user charges include charges for regulating the nuclear energy industry, bankruptcy filing fees, immigration fees, food inspection fees, passport fees, and patent and trademark fees.

User charges do not include all offsetting collections and offsetting receipts from the public, such as repayments received from credit programs, interest or dividends, payments from one part of the Federal Government to another or cost-sharing contributions. In addition, user charges do not include dedicated taxes (such as taxes paid to social insurance programs or excise taxes on gasoline), or customs duties, fines, penalties, or forfeitures.

Alternative definitions. The definition used in this chapter is useful because it is similar to the definition used in OMB Circular No. A–25, "User Charges," which provides policy guidance to Executive Branch agencies on setting prices for user charges. Alternative definitions may be used for other purposes. Much of the discussion of user charges below—their purpose, when they should be levied, and how the amount should be set—applies to these alternative definitions as well.

The definition of user charges could be narrower than the one used in this chapter by being limited to proceeds from the sale of goods and services, excluding the proceeds from the sale of assets, and by being limited to proceeds that are dedicated to financing the goods and services being provided. This definition is similar to one the House of Representatives uses as a guide for purposes of committee jurisdiction. (See the *Congressional Record,* January 3, 1991, p. H31, item 8.) The definition of user charges could be even narrower by excluding regulatory fees and focusing solely on business-type transactions. The user charge definition could be broader than the one used in this chapter by including beneficiary- or liability-based excise taxes, such as gasoline taxes.[3]

What is the purpose of user charges? User charges are intended to improve the efficiency and equity of certain Government activities. User charges reduce the

[3] Beneficiary- and liability-based taxes are terms taken from the Congressional Budget Office, *The Growth of Federal User Charges*, August 1993, and updated in October 1995. In addition to gasoline taxes, examples of beneficiary-based taxes include taxes on airline tickets, which finance air traffic control activities and airports. An example of a liability-based tax is the excise tax that formerly helped fund the hazardous substance superfund in the Environmental Protection Agency. This tax was paid by industry groups to finance environmental cleanup activities related to the industry activity but not necessarily caused by the payer of the fee.

Table 18–2. GROSS OUTLAYS, USER CHARGES, OTHER OFFSETTING COLLECTIONS, AND OFFSETTING RECEIPTS FROM THE PUBLIC, AND NET OUTLAYS
(in billions)

	Actual	Estimate	
	2008	2009	2010
Gross outlays	3,316.3	4,608.3	4,200.0
Offsetting collections and offsetting receipts from the public:			
User charges	243.6	344.5	362.9
Other	89.8	265.9	246.0
Subtotal, offsetting collections and offsetting receipts from the public	333.4	610.5	608.9
Net outlays	2,982.9	3,997.8	3,591.1

TABLE 18–3. TOTAL USER CHARGE COLLECTIONS
(in millions of dollars)

	Actual	Estimates										
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Receipts												
Judicial Branch: Filing fees, U. S. courts	224	232	276	285	301	306	316	314	330	330	330	341
Department of Agriculture: Agricultural quarantine inspection fees	541	484	488	516	546	578	611	647	684	724	766	810
Department of the Interior: Abandoned Mine Reclamation Fund	286	274	276	283	286	253	255	255	257	258	261	261
Department of State: Immigration, passport, and consular fees	738	655	830	870	910	932	955	977	1,000	1,022	1,045	1,067
Department of the Treasury: Premiums for Terrorism Insurance Program	......	......	74	270	867	637	823	965	942	782	588	397
Corps of Engineers: Harbor maintenance fees	1,467	1,089	1,092	1,281	1,473	1,616	1,742	1,873	1,990	2,078	2,165	2,269
Other	349	330	413	404	–88	274	112	–10	–69	21	132	270
Subtotal, receipts	3,605	3,064	3,449	3,909	4,295	4,596	4,814	5,021	5,134	5,215	5,287	5,415
Offsetting Collections and Offsetting Receipts from the Public												
Discretionary:												
Department of Agriculture: Food safety inspection and other charges	344	319	322	325	328	331	336	343	351	360	367	377
Department of Commerce: Patent and trademark, weather services, and other charges	1,998	2,039	2,071	2,167	2,290	2,408	2,522	2,670	2,825	2,990	3,163	3,350
Department of Defense: Commissary and other charges	10,797	10,517	11,490	10,401	10,415	10,443	10,477	10,513	10,551	10,591	10,630	10,670
Department of Energy: Federal Energy Regulation Commission, power marketing, and other charges	1,223	1,624	1,841	1,866	1,882	1,899	1,917	1,968	2,016	2,069	2,124	2,181
Department of Health and Human Services: Food and Drug Administration, Centers for Medicare and Medicaid Services, and other charges	1,743	1,247	1,451	1,465	1,479	1,494	1,509	1,545	1,580	1,618	1,655	1,696
Department of Homeland Security: Border and transportation security, and other charges	2,202	2,482	2,411	2,436	3,299	4,197	5,130	5,241	5,357	5,475	5,595	5,719
Department of the Interior: Minerals Management Service and other charges	873	842	740	806	820	809	830	853	852	886	909	909
Department of Justice: Charges for bankruptcy oversight and other charges	394	354	269	227	231	235	239	244	248	253	257	262
Department of State: Passport and other charges	1,807	2,446	1,845	1,864	1,882	1,901	1,920	1,966	2,012	2,060	2,111	2,161
Department of Transportation: Pipeline safety, aviation and other charges	180	211	223	9,859	10,359	10,869	11,246	11,648	12,066	12,503	12,955	13,427
Department of the Treasury: Sale of commemorative coins and other charges	2,588	2,736	2,753	2,798	2,826	2,854	2,882	2,950	3,019	3,089	3,161	3,237
Department of Veterans Affairs: Medical care and other charges	2,598	2,686	3,036	3,070	3,134	3,187	3,370	3,480	3,594	3,711	3,833	3,959
General Services Administration: Federal Buildings Fund and other charges	124	37	31	31	32	32	32	33	34	35	35	36
Social Security Administration: State supplemental fees for Supplemental Security Income	139	145	165	187	167	192	201	211	241	233	224	255
Federal Communications Commission: Regulatory fees	410	426	420	424	429	433	436	448	458	469	480	493
Federal Trade Commission: Regulatory fees	135	189	129	130	132	133	134	137	141	144	148	151
Nuclear Regulatory Commission: Regulatory fees	764	871	887	895	905	914	923	944	967	990	1,014	1,040
Securities and Exchange Commission: Regulatory fees	984	1,332	1,520	1,755	1,757	1,759	1,760	1,762	1,764	1,766	1,775	1,777
All other agencies, discretionary user charges	287	74	66	66	67	63	60	58	60	61	63	64
Subtotal, discretionary user charges	29,590	30,577	31,670	40,772	42,434	44,153	45,924	47,014	48,136	49,303	50,499	51,764
Mandatory:												
Department of Agriculture: Crop insurance and other charges	2,869	3,808	3,685	3,538	7,455	3,630	3,740	3,796	3,837	3,897	3,951	4,004
Department of Defense: Commissary surcharge and other charges	2,327	1,898	1,898	1,858	1,831	1,831	1,769	1,732	1,717	1,717	1,704	1,704
Department of Energy: Proceeds from the sale of energy, nuclear waste disposal, and other charges	4,303	4,853	5,181	5,636	5,466	5,683	5,740	5,792	5,843	5,898	5,952	6,005
Department of Health and Human Services: Medicare Part B and Part D insurance premiums and other charges	59,435	62,333	64,868	69,359	75,789	83,430	91,145	95,521	101,451	109,110	117,687	126,945
Department of Homeland Security: Customs, immigration, and other charges	8,609	6,931	9,082	7,885	7,983	8,016	8,040	8,057	7,928	7,883	5,521	4,403
Department of the Interior: Recreation and other charges	6,187	5,191	5,613	6,221	6,604	6,885	7,214	7,956	7,708	8,014	8,196	8,672
Department of Justice: Federal Prison Commissary fees and other charges	536	554	564	606	620	635	650	665	681	697	714	731
Department of Labor: Insurance premiums to guaranty private pensions and other charges	3,753	4,616	5,492	7,946	9,945	10,523	10,683	10,954	11,270	11,671	12,083	12,991
Department of the Treasury: Bank regulation and other charges	1,170	1,173	1,164	1,289	1,334	1,382	1,433	1,486	1,547	1,603	1,666	1,732
Department of Veterans Affairs: Veterans life insurance and other charges	2,358	2,241	1,850	1,691	1,670	1,693	1,677	1,652	1,631	1,606	1,588	1,572
Office of Personnel Management: Federal employee health and life insurance fees	12,110	13,061	14,101	15,153	16,075	17,173	18,348	19,575	20,934	22,318	23,839	25,470
Federal Deposit Insurance Corporation: Deposit insurance fees and recoveries	2,922	95,242	119,489	108,011	99,872	85,789	76,796	74,817	33,872	22,496	19,626	17,869
National Credit Union Administration: Credit union share insurance and other fees	551	1,062	1,991	2,439	2,884	3,235	3,540	3,844	2,336	1,475	1,427	1,411
Postal Service: Fees for postal services	75,129	73,073	73,275	74,515	77,706	80,338	82,025	83,747	85,506	87,301	89,135	91,007
Tennessee Valley Authority: Proceeds from the sale of energy	10,307	13,442	13,754	12,933	12,949	12,892	13,519	13,971	14,260	14,759	14,936	15,344
Undistributed Offsetting Receipts												
Department of Commerce: Digital Television Transition and Public Safety Fund	1,779	17,091	......	......	......	......	......	......	......	......	......	......
Federal Communications Commission: Spectrum auction receipts	......	100	850	175	225	200	200	200	200	200	200	200
Outer Continental Shelf receipts and other collections	18,285	6,309	7,331	9,127	10,793	10,810	10,527	10,427	10,536	10,311	10,196	10,085
All other agencies, mandatory user charges	1,427	965	1,087	1,104	1,111	1,157	1,195	1,231	1,288	1,315	1,346	1,405
Subtotal, mandatory user charges	214,057	313,943	331,275	329,486	340,312	335,302	338,241	345,423	312,545	312,271	319,767	331,550
Subtotal, user charges that are offsetting collections and offsetting receipts from the public	243,647	344,520	362,945	370,258	382,746	379,455	384,165	392,437	360,681	361,574	370,266	383,314
Total, User charges	247,252	347,584	366,394	374,167	387,041	384,051	388,979	397,458	365,815	366,789	375,553	388,729

burden on taxpayers by financing activities that benefit a relatively limited number of people and by financing regulatory activities.

User charges that are set to cover the costs of production of goods and services can provide efficiency in the allocation of resources within the economy. Such charges allocate goods and services to those who value them the most and signal to the Government how much of the goods or services it should provide. Prices in private, competitive markets serve the same purposes.User charges for goods and services that do not have special social or distributional benefits may also improve equity or fairness by requiring those who benefit from an activity to pay for it and by allowing those who do not benefit from an activity to not pay for it.

When should the Government impose a charge? Discussions of whether to finance spending with a tax or a fee often focus on whether the benefits of the activity accrue to the public in general or to a limited group of people. In general, if the benefits accrue broadly to the public or have special social or distributional benefits, then the program should be financed by taxes paid by the public. In contrast, if the benefits accrue to a limited number of private individuals or organizations and do not have special social or distributional benefits, then the program should be financed by charges paid by the private beneficiaries. For Federal programs where the benefits are entirely public or entirely private, applying this principle can be relatively easy. For example, according to this principle, the benefits from national defense accrue to the public in general, and should be and are financed by taxes. In contrast, the benefits of electricity sold by the Tennessee Valley Authority accrue exclusively to those using the electricity, and should be and are financed by user charges.

In many cases, however, an activity has benefits that accrue to both public and private groups, and it may be difficult to identify how much of the benefits accrue to each. Because of this, it can be difficult to know how much of the program should be financed by taxes and how much by fees. For example, the benefits from recreation areas are mixed. Fees for visitors to these areas are appropriate because the visitors benefit directly from their visit, but the public in general also benefits because these areas protect the Nation's natural and historic heritage now and for posterity. Where a fee may be appropriate to finance all or part of an activity, some consideration must be given to the ease of administering the fee.

What amount should be charged? When the Government is acting in its capacity as sovereign and where user charges are appropriate, current policies support setting fees equal to the full cost to the Government, including both direct and indirect costs. When the Government is not acting in its capacity as sovereign and engages in a purely business-type transaction (i.e., leasing or selling goods, services, or resources), market price is generally the basis for establishing the fee.[4] If the Government is engaged in a purely business-type transaction and economic resources are allocated efficiently, then this market price should be equal to or greater than the Government's full cost of production.

Classification of user charges in the budget. As shown in Table 18–1, most user charges are classified as offsets to outlays on the spending side of the budget, but a few are classified on the receipts side of the budget. An estimated $3.4 billion in 2010 of user charges are classified on the receipts side and are included in the totals described in Chapter 17, "Federal Receipts." They are classified as receipts because they are regulatory charges collected by the Federal Government by the exercise of its sovereign powers. Examples include filing fees in the United States courts, agricultural quarantine inspection fees, and passport fees. These regulatory charges are unlike those user charges that are classified as offsets to outlays, which are normally for identifiable goods or services that benefit primarily the party paying the charge and for which alternatives may exist in the private sector or State and local government sectors.

The remaining user charges, an estimated $362.9 billion in 2010, are classified as offsetting collections and offsetting receipts on the spending side of the budget. Some of these are collected by the Federal Government by the exercise of its sovereign powers and conceptually would appear on the receipts side of the budget, but are required by law to be classified on the spending side as offsetting collections or offsetting receipts. Examples of these charges include immigration examination fees, U. S. customs processing fees, and nuclear regulatory fees.

As shown in Table 18–5, an estimated $271.2 billion of user charges for 2010 will be credited directly to expenditure accounts and will generally be available for expenditure when they are collected, without further action by the Congress. An estimated $91.7 billion of user charges for 2010 will be deposited in offsetting receipt accounts and will be available to be spent only according to the legislation that established the charges.

As a further classification, the accompanying Tables 18–3 and 18–4 identify the user charges as discretionary or mandatory. These classifications are terms from the Budget Enforcement Act of 1990 as amended and are used frequently in the analysis of the budget. "Discretionary" refers to user charges generally controlled through annual appropriations acts and under the jurisdiction of the appropriations committees in the Congress. "Mandatory" refers to user charges controlled by permanent laws and under the jurisdiction of the authorizing committees. These and other classifications are discussed further in this volume in Chapter 25, "The Budget System and Concepts."

[4] Policies for setting user charges are promulgated in OMB Circular No. A–25: "User Charges" (July 8, 1993).

II. TOTAL USER CHARGES

As shown in Table 18–3, total user charge collections (including those proposed in this Budget) are estimated to be $366.4 billion in 2010 and average $381.0 billion from 2011–19. Collections by the Postal Service and for Medicare premiums are the largest user charge collections, accounting for more than half of total user charge collections in 2008 and more than 40 percent over the coming decade. Collections by the Federal Deposit Insurance Corporation (FDIC) are expected to increase significantly from 2008 to 2009 as a result of bank failures, and the subsequent takeover and sale of the banks' assets by the FDIC. Under the Administration's policies, collections by the FDIC for deposit insurance premiums are projected to increase beginning in 2011, as the insurance fund is replenished after the expected end of the current economic downturn.

III. USER CHARGE PROPOSALS

As shown in Table 18–4, the Administration is proposing new, increased and, in the case of deposit and credit union share insurance, modified user charges that would, in the aggregate, decrease collections by an estimated $14.7 billion in 2010 and increase collections by an average of $ 18.2 billion per year from 2011–19. These amounts are offsetting collections, offsetting receipts and governmental receipts only; they do not include related spending.

A. Discretionary User Charge Proposals

1. Offsetting collections

Department of Health and Human Services: Food and Drug Administration (FDA)

The Budget includes a number of FDA proposals, which are discussed below, and reflects an exact estimate for increased collections for these proposals for 2010 only. The precise amount of collections for the various proposals for each subsequent year will be negotiated with Congress and other interested parties during FDA's authorization process.

Generic drug review activities fees. Generic drugs play an important role in reducing the cost of and increasing access to pharmaceuticals. The Budget includes a proposal for a new user charge to generate additional resources in support of FDA's generic drug review activities. Similar to the purpose served by FDA's current prescription drug user charges, the proposed generic drug user charge would be used to improve review times and reduce the current backlog of applications.

Generic biologics user charges. The Administration proposes to establish a new regulatory pathway for FDA to approve follow-on biologics, which are generic versions of therapies that contain proteins derived from living cells. The Administration proposal would accelerate the production of affordable generic biologic drugs, protect patient safety, promote innovation, and include a financing structure to cover the costs of this activity.

Reinspection and export certification fees. FDA conducts post-market inspections of manufacturers of food, human drugs, biologics, animal drugs, animal feed, and medical drugs to assess their compliance with Good Manufacturing Practice requirements. The Budget includes a proposal to enable FDA to assess fees for follow-up re-inspections that are required when violations of Good Manufacturing Practices are found during initial inspections. In addition, FDA collects user charges for the issuance of export certifications for human drugs, animal drugs, and medical devices. The Budget includes a proposal to expand FDA's authority to collect fees for issuing export certifications for food and animal feed.

Food inspection and food facility registration fees. The Budget includes two new user charges designed to improve and support additional inspections and enforcement activities, and to establish and maintain a food facility registration system.

Department of Homeland Security

Aviation passenger security fee: Since its establishment in 2001, under the Aviation and Transportation Security Act, the aviation passenger security fee has been limited to $2.50 per passenger enplanement with a maximum fee of $5.00 per one-way trip. However, the cost of providing security has increased substantially since 2001. The Administration proposes to increase by $1.00 per year the aviation passenger security fee beginning in fiscal year 2012 to a maximum of $5.50 per enplanement and $11.00 per one-way trip in 2014 and thereafter. This adjustment will fulfill the original intent of the Aviation and Transportation Security Act by more closely allocating the cost of aviation security services to those individuals who directly benefit from the service. With the proposed adjustments to the aviation passenger security fee, total aviation security fees (which include an air carrier fee) would generate revenue sufficient to fund 86 percent of the discretionary costs of the Transportation Security Administration's Aviation Security Program in fiscal year 2014, compared to approximately 40 percent currently.

Department of the Interior

Bureau of Land Management (BLM): Onshore oil and gas permit fees. The 2005 Energy Policy Act prohibits BLM from implementing new user charges for oil and gas permit processing, and requires that existing rental receipts, which are classified as mandatory, make up for the lost program funding. The Administration proposes to perma-

Table 18–4. USER CHARGE PROPOSALS IN THE FY 2010 BUDGET [1]
(estimated collections in millions of dollars)

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010–2014	2010–2019
OFFSETTING COLLECTIONS AND OFFSETTING RECEIPTS													
DISCRETIONARY:													
1. *Offsetting collections*													
Department of Health and Human Services:													
Food and Drug Administration:													
Generic drug review activities fees	---	36	**	**	**	**	**	**	**	**	**	**	**
Generic biologics user charges	---	**	**	**	**	**	**	**	**	**	**	**	**
Reinspection and export certification fees	---	30	**	**	**	**	**	**	**	**	**	**	**
Food inspection and food facility registration fees	---	75	**	**	**	**	**	**	**	**	**	**	**
Department of Homeland Security:													
Aviation passenger security fee	---	---	---	840	1,713	2,621	2,673	2,727	2,781	2,837	2,894	5,174	19,086
Department of the Interior:													
Bureau of Land Management: Onshore oil and gas permit fees	---	46	46	46	46	46	46	46	46	46	46	228	455
Minerals Management Service: Outer Continental Shelf inspection fees	---	10	10	10	10	10	10	10	10	10	10	50	100
Department-wide: Working Capital Fund fee	---	*	*	*	*	*	*	*	*	*	*	*	1
Department of Transportation:													
Federal Aviation Administration: Air traffic user charge	---	---	9,634	10,131	10,639	11,013	11,410	11,824	12,254	12,700	13,165	41,417	102,770
Department of the Treasury:													
Alcohol and Tobacco Tax and Trade Bureau regulatory fee	---	80	98	99	100	101	102	103	103	104	105	478	995
2. *Offsetting receipts*													
Department of Energy:													
Environmental cleanup fee	---	200	203	207	212	216	221	225	230	235	240	1,038	2,189
Subtotal, discretionary user charge proposals	---	476	9,991	11,333	12,720	14,007	14,462	14,935	15,424	15,932	16,460	48,385	125,596
MANDATORY:													
1. *Offsetting collections*													
Department of Health and Human Services:													
Centers for Medicare and Medicaid Services: Survey and certification user charges	---	9	46	72	101	106	108	111	114	117	121	335	906
Federal Deposit Insurance Corporation:													
Deposit insurance premium reprieve proposal	-7,500	-10,763	-6,833	-2,392	2,731	8,504	14,330	-7	15	-5	2	-8,753	5,582
National Credit Union Administration:													
Share insurance premium reprieve proposal	---	-5,166	170	461	901	1,481	2,064	770	35	37	39	-2,153	793
2. *Offsetting receipts*													
Department of Agriculture:													
Food Safety and Inspection Service user charges	---	4	4	4	4	4	4	5	5	5	5	20	44
Grain, Inspection, Packers, and Stockyards Administration user charges	---	27	30	30	31	31	31	32	32	32	33	149	309
Animal and Plant Health Inspection Service user charges	---	20	27	27	28	29	30	31	32	33	34	131	291
Crop insurance subsidies	---	---	429	427	595	599	610	620	627	634	642	2,050	5,184
Department of Homeland Security:													
Customs and Border Patrol inspection fees	---	124	124	124	124	124	124	124	124	71	---	620	1,063
Department of the Interior:													
Fee on nonproducing Gulf of Mexico oil and gas leases	---	122	121	115	107	109	112	114	116	119	121	574	1,156
Environmental Protection Agency:													
Pesticide user charges	---	48	48	47	59	61	61	63	63	65	65	263	580
Pre-manufacture notice user charges	---	4	8	8	8	8	8	8	8	8	8	36	76
Federal Communications Commission:													
Spectrum license fee authority	50	200	300	425	550	550	550	550	550	550	550	2,025	4,775
Extend spectrum auction authority	---	---	---	---	200	200	200	200	200	200	200	400	1,400
Domestic satellite spectrum auctions	---	100	75	25	---	---	---	---	---	---	---	200	200
Subtotal, mandatory user charge proposals	-7,450	-15,270	-5,451	-627	5,439	11,806	18,232	2,621	1,921	1,867	1,820	-4,103	22,359
Subtotal, user charge proposals that are offsetting collections and offsetting receipts	-7,450	-14,794	4,539	10,706	18,158	25,813	32,694	17,555	17,345	17,799	18,280	44,281	148,094
GOVERNMENTAL RECEIPTS													
Corps of Engineers - Civil Works:													
Preserving cost-sharing of inland waterways capital costs	---	75	100	68	79	89	156	155	183	182	180	411	1,267
Subtotal, governmental receipts user charge proposals	---	75	100	68	79	89	156	155	183	182	180	411	1,267
Total, user charge proposals	-7,450	-14,719	4,639	10,774	18,237	25,902	32,850	17,710	17,528	17,981	18,460	44,692	149,361

* $500 thousand or less

** The estimates reflect collections for 2010 only, but precise collection levels for each year will be negotiated during the authorization process. Since the Generic Biologics fee is a completely new activity for the Food and Drug Administration, precise collection levels will be negotiated for each year, including 2010.

[1] A negative sign indicates a decrease in collections.

nently repeal these changes and substitute user charges for the mandatory funding provided by the Act. The proposed fees are expected to generate $46 million per year, thereby reducing the cost to taxpayers of operating a program that benefits specific users. Notwithstanding the fee prohibition, a comparable oil and gas permitting fee was enacted as part of both the 2008 and 2009 Interior appropriations laws, but this fee is in place only through fiscal year 2009. The Administration is proposing to increase this permitting fee in the 2010 Interior appropriations language, while seeking a more permanent solution for 2011 and beyond through a repeal of the Energy Policy Act fee prohibition. Once the fee prohibition is removed, BLM will use its normal cost recovery authority to put in place comparable fees through regulation.

Minerals Management Service (MMS): Outer Continental Shelf (OCS) Inspection Fees. The Budget includes appropriations language to begin charging OCS inspection fees to oil and gas facilities that are subject to inspection by MMS. The fees would be based on the number of oil and gas wells per facility, providing for costs to be shared equitably across the industry. According to agency data, MMS currently spends more than $44 million on compliance inspections. Inspection costs include, among other things, the cost of approximately 60 inspectors and nearly $20 million in helicopter costs. Inspection costs rise as energy development companies extend exploration and production efforts into deeper waters; additional miles must be flown, aircraft requirements increase, and the time for travel and inspection increases as facilities become increasingly complex. The proposed fee will generate approximately $10 million in 2010, thereby requiring OCS energy developers to fund roughly 25 percent of compliance inspection costs.

Working Capital Fund fee: The Budget includes a proposal to allow the National Indian Program Training Center to extend services to State and local governments and Native American Tribes. The services include both training courses and use of the Center's facilities. Currently, the Center is only authorized to collect fees for services on a reimbursable basis from Federal agencies, leaving State and local governments, and Tribes unable to use the Center's services. Estimates of the new collections resulting from this proposal are less than $500,000 per year.

Department of Transportation: Federal Aviation Administration (FAA)

Air traffic user charges. Starting in 2011, the Budget assumes that the air traffic control system will be funded with direct charges levied on users of the system. The FAA's current excise tax system, which generated $12.4 billion in 2008, is largely based on taxes that depend on the price of customers' airline tickets, not FAA's cost for moving flights through the system. The Administration believes that the FAA should move toward a model whereby FAA's funding is related to its costs, the financing burden is distributed more equitably, and funds are used to pay directly for services the users need. The Administration recognizes that there are alternative ways to achieve these objectives. Accordingly, the Administration will work with stakeholders and the Congress to enact legislation that moves toward such a system. The Budget reflects such a reform being in place starting in 2011, with a user charge collecting $9.6 billion in that year and with aviation excise taxes being commensurately reduced.

Department of the Treasury

Alcohol and Tobacco Tax and Trade Bureau (TTB) regulatory fees. The TTB ensures that alcohol products are labeled, advertised, and marketed in accordance with Federal law. TTB has the authority to inspect places of business associated with alcohol production and distribution, and to assess fines for unlawful activity. The Administration proposes to charge businesses a fee to cover the costs of TTB's regulatory activities.

2. Offsetting receipts

Department of Energy

Environmental cleanup fee. The Budget includes a proposal to reauthorize the special assessment on domestic utilities for deposit into the Uranium Enrichment Decontamination and Decommissioning Fund. Established in 1992, the Fund pays, subject to appropriations, the decontamination and decommissioning costs of the Department of Energy's gaseous diffusion plants in Tennessee, Ohio, and Kentucky. Additional resources, from the proposed cleanup fee, are required due to higher-than-expected cleanup costs.

B. Mandatory User Charge Proposals

1. Offsetting collections

Department of Health and Human Services: Centers for Medicare and Medicaid Services (CMS)

Survey and certification user charges. The Budget proposes two user charges for the survey and certification program within CMS. CMS would charge facilities participating in Medicare and Medicaid a fee for follow-up surveys, which are required to determine whether facilities have taken corrective action to comply with specific Federal health, safety, and quality standards. The agency would also charge a fee to health care facilities to recover part of the cost of all recertification surveys required for participation in the Medicare program.

Federal Deposit Insurance Corporation (FDIC)

Premium reprieve proposal. The FDIC is required to maintain a reserve equal to 1.15 percent to 1.5 percent of insured deposits, but the reserve ratio has been below 1.15 percent since June 30, 2008. By law, the FDIC is required to raise deposit insurance premiums significantly to restore the reserve ratio within five years (or within a longer period of time if "extraordinary circumstances"

exist). To prevent premiums from increasing in 2009 and 2010, when banks' earnings may be strained, the Budget includes a proposal to increase the FDIC's borrowing authority from $30 billion to $100 billion. In addition, under the proposal, premiums would increase steadily beginning in 2011. The reserve ratio is projected to be restored to 1.15 percent in 2015 and to reach 1.25 percent in 2016. The effect of this proposal will be to shift some collections from 2009 through 2012 into subsequent years.

National Credit Union Administration (NCUA)

Premium proposal. The Federal Credit Union Act requires the NCUA to increase premiums charged to member institutions if the equity ratio in the Share Insurance Fund (SIF) falls below 1.2 percent, as it is projected to do in 2009. The Budget includes a proposal to restore the SIF equity ratio over a seven-year period by allowing the NCUA to increase premiums gradually, rather than immediately as required by current law. Under the proposal, the SIF equity ratio is projected to return to 1.2 percent in 2015 and to reach the NCUA-set target ratio of 1.3 percent in 2016. The effect of this proposal will be to shift some collections from 2010 into subsequent years.

2. Offsetting receipts

Department of Agriculture

Food Safety and Inspection Service (FSIS) user charges. Through a variety of activities, including slaughter and processing plant inspections, FSIS ensures that meat, poultry and egg products are safe, wholesome, and correctly labeled and packaged. This Budget includes a proposal for a new performance user charge. The fee would be charged to those facilities that have product recalls, are linked to an outbreak of foodborne illness, or require resampling and retesting because of positive samples. The fee would be charged each time one of these incidents occurs.

Grain Inspection, Packers, and Stockyards Administration (GIPSA) user charges. The Administration proposes to establish a fee to cover the cost associated with GIPSA's standardization activities and a licensing fee to cover the cost associated with administering meat packers and stockyards activities.

Animal and Plant Health Inspection Service (APHIS) user charges. The Administration proposes to establish user charges for: (1) animal welfare inspections for animal research facilities, carriers, and in-transit handlers of animals, (2) licenses for individuals or companies who seek to market a veterinary biologic, and (3) reviews and inspections that may allow APHIS to issue permits that acknowledge that regulated entities are providing sufficient safeguards in the testing of biotechnologically derived products.

Federal Crop Insurance fees: The Budget includes a proposal to lower the Federal crop insurance subsidy provided to both farmers and insurance companies. The proposal would reduce premium subsidies by five percentage points for all coverage levels, increase the Government's share of underwriting gains from five percent to 20 percent, reduce the premium on Catastrophic Crop Insurance (CAT) by 25 percent and charge a sliding scale fee for CAT coverage from $300 up to $5,000 depending on the crop value.

Department of Homeland Security

Customs and Border Protection (CBP) inspection user charges. The Budget includes a proposal to consolidate two existing fee accounts into a new CBP inspection user charge account. The two existing fee accounts support CBP's passenger and property inspections at U.S. ports of entry. The new single fee will continue to support these activities and will streamline both collection and administrative activities.

Department of the Interior: Minerals Management Service

Fee on non-producing Gulf of Mexico oil and gas leases. The Budget includes a proposal that is part of a broader Administration initiative to encourage energy development on lands already leased for development. A new $4 per acre fee on non-producing Outer Continental Shelf (OCS) leases in the Gulf of Mexico would provide a financial incentive for oil and gas companies to either get their leases into production or relinquish them so that the tracts can be re-leased to and developed by new parties. The proposed $4 per acre fee would be indexed annually. In October 2008, the Government Accountability Office (GAO) issued a report critical of past efforts by the Department of the Interior to ensure that companies diligently develop their Federal leases. Although the GAO report focused on administrative actions that the Department could undertake, this proposal requires legislative action. This proposal is similar to other non-producing fee proposals considered by the Congress in the last several years.

Environmental Protection Agency (EPA)

Pesticide user charges. All pesticides marketed in the United States must be registered with EPA. Presently, EPA collects fees from entities seeking to register their pesticides and from entities seeking to maintain their registrations. The Administration proposes to better cover the costs of EPA's pesticide registration services by increasing the amount charged for currently authorized pesticide user charges. Amendments to the Federal Insecticide, Fungicide, and Rodenticide Act require EPA to review all registered pesticides on a 15-year cycle to ensure that registrations reflect current science. The Administration's proposed increases to registration and maintenance fees are intended to cover the increased costs posed by these reviews and a greater portion of overall program costs. In addition, although the Federal Food, Drug, and Cosmetic Act requires EPA to collect fees for the establishment and reassessment of pesticide tolerances, the collection of these fees has been blocked through 2012 by statute. The Administration proposes to eliminate this prohibition and collect the tolerance fee beginning in 2010.

Premanufacture notice user charges. EPA presently collects fees from chemical manufacturers seeking to market new chemicals. These fees are authorized by the Toxic Substances Control Act and are subject to a statutory cap. The Administration proposes to lift the cap so that EPA can recover a greater portion of the program cost.

Federal Communications Commission (FCC)

Spectrum license fee authority. To promote efficient use of the electromagnetic spectrum, the Administration proposes to provide the FCC with new authority to use other economic mechanisms, such as fees, as a spectrum management tool. The Commission would be authorized to set user charges on unauctioned spectrum licenses based on spectrum-management principles. Fees would be phased in over time as part of an ongoing rulemaking process to determine the appropriate application and level for fees.

Extend spectrum auction authority. The Administration proposes to extend indefinitely the authority of the FCC to auction spectrum licenses, which expires on September 30, 2012.

Domestic satellite spectrum auctions. The Administration proposes to ensure that spectrum licenses for predominantly domestic satellite services are assigned efficiently and effectively through competitive bidding. Services such as Direct Broadcast Satellite and Satellite Digital Audio Radio Services were assigned by auction prior to a 2005 court decision. The Administration proposes to authorize through legislation auctions of licenses for these and similar domestic satellite services.

C. User Charge Proposals that are Governmental Receipts

Corps of Engineers—Civil Works

Preserving cost-sharing of inland waterways capital costs. In 1986, the Congress mandated that commercial traffic on the inland waterways would be responsible for 50 percent of the capital costs of the locks, dams, and other features that make barge transportation possible on the inland waterways. The current excise tax of 20 cents per gallon on diesel fuel is not generating enough revenue to cover the required 50 percent of these costs. The Administration proposes to phase out this excise tax in stages and replace it with a lock usage fee. The lock usage fee is designed to improve economic efficiency and preserve the landmark cost-sharing reform established in 1986, while also supporting investments in inland waterways construction, replacement, expansion, and rehabilitation work.

OTHER OFFSETTING COLLECTIONS AND RECEIPTS

Table 18–5 shows the distribution of user charges and other collections from the public according to whether they are offsetting collections credited to expenditure accounts or offsetting receipts credited to receipt account. The table shows that total offsetting collections and offsetting receipts from the public are estimated to be $610.5 billion in 2009. Of these, an estimated $292.4 billion are offsetting collections and an estimated $318.1 billion are offsetting receipts.

Information on the user charges presented in Table 18–5 is available in Tables 18–3 and 18–4 and the discussion that accompanies those tables. Major offsetting collections deposited in expenditure accounts that are not user charges include collections by the Commodity Credit Corporation fund in the Department of Agriculture, which are related to loans, collections from States to supplement payments in the Supplemental Security Income program, and pre-credit reform loan repayments. Major offsetting receipts that are not user charges include military assistance program sales and interest income.

Table 18–6 includes all offsetting receipts deposited in receipt accounts. These include offsetting receipts from the public (as summarized in Table 18–5) and also payments from one part of the Government to another, called intragovernmental transactions. These receipts are offset or deducted from outlays in the Federal budget. In total, offsetting receipts are estimated to be $958.7 billion in 2010: $672.6 billion are intragovernmental transactions and $286.0 billion are from the public. The $286.0 billion in offsetting receipts from the public consist of proprietary receipts from the public ($278.4 billion) and offsetting governmental receipts ($7.6 billion).

Table 18–5. OFFSETTING COLLECTIONS AND OFFSETTING RECEIPTS FROM THE PUBLIC
(in billions of dollars)

	Actual 2008	Estimate	
		2009	2010
Offsetting collections (credited to expenditure accounts):			
User charges:			
Postal service stamps and other USPS fees (off-budget)	75.1	73.1	73.3
Defense Commissary Agency	5.9	5.8	5.8
Employee contributions for employees and retired employees health benefits funds	9.8	10.7	11.6
Sale of energy:			
Tennessee Valley Authority	10.3	13.4	13.8
Bonneville Power Administration	3.0	3.5	3.9
Federal Deposit Insurance Corporation: Deposit insurance fees and recoveries	2.9	95.2	119.5
All other user charges	38.4	39.3	43.3
Subtotal, user charges	145.4	241.0	271.2
Other collections credited to expenditure accounts:			
Commodity Credit Corporation fund	9.9	10.7	10.7
Supplemental Security Income (collections from the States)	4.4	4.5	4.6
Other collections	15.1	36.2	36.5
Subtotal, other collections	29.4	51.4	51.7
Subtotal, offsetting collections	174.7	292.4	322.9
Offsetting receipts (deposited in receipt accounts):			
User charges:			
Medicare premiums	54.3	57.3	59.6
Outer Continental Shelf rents, bonuses, and royalties	18.3	6.3	7.1
Digital Television Transition and Public Safety Fund	1.8	17.1	0.0
All other user charges	23.9	22.9	25.0
Subtotal, user charges deposited in receipt accounts	98.3	103.5	91.7
Other collections deposited in receipt accounts:			
Military assistance program sales	21.8	24.0	21.6
Interest received from credit financing accounts	11.1	129.3	126.4
Other Interest income	–5.0	–0.4	8.3
All other collections deposited in receipt accounts	32.5	61.7	38.0
Subtotal, other collections deposited in receipt accounts	60.4	214.6	194.6
Subtotal, offsetting receipts	158.7	318.1	286.0
Total, offsetting collections and offsetting receipts from the public	333.4	610.5	608.9
Total, offsetting collections and offsetting receipts excluding off-budget	**258.2**	**537.3**	**535.6**
ADDENDUM:			
User charges that are offsetting collections and offsetting receipts [1]	243.6	344.5	362.9
Other offsetting collections and offsetting receipts from the public	89.8	265.9	246.0
Total, offsetting collections and offsetting receipts from the public	**333.4**	**610.5**	**608.9**

[1] Excludes user charges that are classified on the receipts side of the budget. For total user charges, see Table 18-1.

Table 18–6. OFFSETTING RECEIPTS BY TYPE
(In Millions of Dollars)

Source	2008 Actual	Estimate					
		2009	2010	2011	2012	2013	2014
Intragovernmental Receipts							
On Budget							
Interfund Receipts							
Federal Fund Payments to Trust Funds							
Distributed by Agency							
Contributions to insurance programs							
Military retirement fund	46,187	51,125	58,605	60,823	63,104	65,471	67,926
Proposed Legislation (Non-PAYGO)	......	......	402	417	433	449	609
Supplementary medical insurance	180,435	195,406	206,725	222,907	237,771	269,675	295,425
Hospital insurance	12,553	14,353	15,978	18,062	19,157	20,828	22,938
Railroad social security equivalent benefit fund	126	121	157	171	181	198	209
Civilian supplementary retirement contributions	31,252	31,805	32,380	32,899	33,702	34,704	35,506
Unemployment insurance	722	13,731	14,154	1,228	953	895	872
Other contributions	1,154	817	846	853	806	788	780
Rail industry pension fund	233	200	314	322	331	342	352
Subtotal, Contributions to insurance programs	272,662	307,558	329,561	337,682	356,438	393,350	424,617
Other miscellaneous transactions							
Miscellaneous payments	9,257	8,780	1,694	1,698	1,708	1,720	1,732
Subtotal, Distributed by Agency	281,919	316,338	331,255	339,380	358,146	395,070	426,349
Undistributed by Agency							
Employer share, employee retirement (on-budget)							
Civil service retirement and disablity insurance	15,678	15,748	16,569	17,253	17,816	18,475	19,218
Hospital insurance (contribution as employer)	2,922	3,106	3,219	3,314	3,380	3,532	3,664
Military retirement fund	19,034	19,880	25,007	24,762	25,657	26,582	27,472
Proposed Legislation (Non-PAYGO)	......	......	370	381	394	407	421
Other federal employees retirements	223	229	238	246	255	265	274
Postal Service contributions to FHI	788	814	825	853	889	928	968
CSRDI from Postal Service	2,892	3,591	3,886	4,166	4,425	4,707	5,007
Subtotal, Employer share, employee retirement (on-budget)	41,537	43,368	50,114	50,975	52,816	54,896	57,024
Other miscellaneous transactions							
Interest received by on-budget trust funds	77,821	67,960	80,515	82,541	84,755	86,735	89,090
Proposed Legislation (Non-PAYGO)	......	......	12	65	168	350	399
Subtotal, Federal Fund Payments to Trust Funds	401,277	427,666	461,896	472,961	495,885	537,051	572,862
Trust fund Payments to Federal Funds							
Distributed by Agency							
Other miscellaneous transactions							
Other	1,961	1,288	1,250	1,337	1,418	1,473	1,524
Repayment of loans or advances to trust funds	......	2,496	......	......	......	......	......
Subtotal, Trust fund Payments to Federal Funds	1,961	3,784	1,250	1,337	1,418	1,473	1,524
Subtotal, Interfund Receipts	403,238	431,450	463,146	474,298	497,303	538,524	574,386
Federal Intrafund Receipts							
Distributed by Agency							
General fund payments to retirement and health benefits funds							
DOD retiree health care fund	20,775	19,790	21,532	23,390	25,393	27,730	30,077
Employees health benefits fund	5,600	5,400	5,500	5,500	5,600	5,600	5,700
Miscellaneous Federal retirement funds	340	402	500	463	467	450	450
Subtotal, General fund payments to retirement and health benefits funds	26,715	25,592	27,532	29,353	31,460	33,780	36,227
Interest							
Interest on Government capital in enterprises	1,331	1,269	957	1,159	1,232	1,292	1,387
Interest from the Federal Financing Bank	775	904	2,103	3,697	4,878	5,584	5,864

Table 18–6. OFFSETTING RECEIPTS BY TYPE—Continued
(In Millions of Dollars)

Source	2008 Actual	Estimate 2009	2010	2011	2012	2013	2014
Proposed Legislation (Non-PAYGO)	......	......	5	25	44	123	109
Interest received by retirement and health benefits funds	142	165	177	191	207	217	237
Subtotal, Interest	2,248	2,338	3,242	5,072	6,361	7,216	7,597
Other miscellaneous transactions:							
Other	2,607	4,538	4,909	5,456	5,989	6,527	7,487
Subtotal, Distributed by Agency	31,570	32,468	35,683	39,881	43,810	47,523	51,311
Undistributed by Agency							
Employing agency contributions							
DOD retiree health care fund	11,496	10,645	11,056	11,729	12,482	13,251	14,072
Subtotal, Undistributed by Agency	11,496	10,645	11,056	11,729	12,482	13,251	14,072
Subtotal, Federal Intrafund Receipts	43,066	43,113	46,739	51,610	56,292	60,774	65,383
Trust Intrafund Receipts							
Distributed by Agency							
Personnel benefits							
Payment to railroad retirement (from off-budget)	5,348	5,662	6,188	6,479	6,063	6,163	6,324
Other miscellaneous transactions							
Other	1	6	10	10	10	10	10
Subtotal, Trust Intrafund Receipts	5,349	5,668	6,198	6,489	6,073	6,173	6,334
Subtotal, On Budget	451,653	480,231	516,083	532,397	559,668	605,471	646,103
Off Budget							
Interfund Receipts							
Federal Fund Payments to Trust Funds							
Distributed by Agency							
Personnel benefits							
Old-age, survivors and disablitity, insurance	17,813	20,845	24,551	27,155	28,954	31,888	34,549
Undistributed by Agency							
Personnel benefits							
Employer share, employee retirement (off-budget)	13,145	14,168	14,905	15,533	16,081	17,115	17,976
Other miscellaneous transactions							
Interest received by off-budget trust funds	113,718	117,844	117,100	121,058	128,277	137,246	147,654
Subtotal, Undistributed by Agency	126,863	132,012	132,005	136,591	144,358	154,361	165,630
Subtotal, Federal Fund Payments to Trust Funds	113,718	117,844	117,100	121,058	128,277	137,246	147,654
Subtotal, Interfund Receipts	144,676	152,857	156,556	163,746	173,312	186,249	200,179
Subtotal, Off Budget	144,676	152,857	156,556	163,746	173,312	186,249	200,179
Subtotal, Intragovernmental Receipts	596,329	633,088	672,639	696,143	732,980	791,720	846,282
Receipts from the Public							
On Budget Source							
Proprietary Receipts							
Federal Fund Receipts							
Distributed by Agency							
Fees and other charges for services and special benefits							
Nuclear waste displosal revenues	763	769	766	762	764	767	769
Other	4,152	4,021	4,381	4,439	4,463	4,565	4,753
Proposed Legislation (Non-PAYGO)	......	......	......	46	46	46	46
Proposed Legislation (PAYGO)	......	......	1,217	1,271	1,311	1,347	1,394
Subtotal, Fees and other charges for services and special benefits	4,915	4,790	6,364	6,518	6,584	6,725	6,962

Table 18–6. OFFSETTING RECEIPTS BY TYPE—Continued
(In Millions of Dollars)

Source	2008 Actual	Estimate					
		2009	2010	2011	2012	2013	2014
Interest							
Interest on foreign loans and deferred foreign collections	59	130	130	130	130	130	130
Interest on deposits and loan accounts	604	632	632	632	632	632	632
Other interest	11,399	129,542	126,678	123,512	120,543	117,136	114,137
Dividends and other earnings	......	4,421	6,680	6,680	6,680	6,680	6,680
Subtotal, Interest	12,062	134,725	134,120	130,954	127,985	124,578	121,579
Realization upon loans and investments							
Negative and downward reestimates	13,462	41,566	13,480	4,777	1,866	1,340	1,250
Proposed Legislation (PAYGO)	......	2	4,130	4,558	3,089	1,611	1,496
Repayment of loans to foreign nations	1	......	......	......	......	......	......
Other	49	62	62	62	62	62	62
Subtotal, Realization upon loans and investments	13,512	41,630	17,672	9,397	5,017	3,013	2,808
Sale of Government property							
Sale of land and other real property	166	172	176	167	203	212	223
Other sales of government property	219	200	196	150	115	115	71
Subtotal, Sale of Government property	385	372	372	317	318	327	294
Sale of products							
Sale of timber and other natural land products	233	236	241	249	262	336	367
Sale of minerals and mineral products	58	18	17	17	17	15	15
Sale of power and other utilities	634	699	517	605	548	617	628
Other	150	122	98	112	118	100	115
Subtotal, Sale of products	1,075	1,075	873	983	945	1,068	1,125
Other miscellaneous transactions							
Royalties and rents	5,433	4,365	4,620	5,245	5,582	5,827	6,114
Proposed Legislation (PAYGO)	......	......	–51	–50	–49	–49	–49
Recoveries and refunds	4,935	5,334	5,148	4,921	5,043	5,179	5,302
Proposed Legislation (PAYGO)	......	......	......	3	4	4	4
Miscellaneous receipt accounts	1,444	1,795	1,734	1,738	1,719	1,731	1,746
Proposed Legislation (PAYGO)	......	......	23	23	23	23	23
Subtotal, Other miscellaneous transactions	11,812	11,494	11,474	11,880	12,322	12,715	13,140
Subtotal, Distributed by Agency	43,761	194,086	170,875	160,049	153,171	148,426	145,908
Undistributed by Agency							
Outer Continental Shelf							
Outer Continental Shelf escrow account	10	......	......	......	......	......	......
Outer Continental Shelf rents and bonuses	9,850	1,520	877	555	522	384	196
Proposed Legislation (PAYGO)	......	......	122	121	115	107	109
Outer Continental Shelf royalties	8,435	4,739	6,082	8,101	9,358	9,719	9,622
Proposed Legislation (PAYGO)	......	......	50	50	50	50	50
Subtotal, Outer Continental Shelf	18,295	6,259	7,131	8,827	10,045	10,260	9,977
Other miscellaneous transactions							
Sale of major assets	......	......	......	......	323	......	......
Subtotal, Undistributed by Agency	18,295	6,259	7,131	8,827	10,368	10,260	9,977
Subtotal, Federal Fund Receipts	62,056	200,345	178,006	168,876	163,539	158,686	155,885
Trust Fund Receipts							
Distributed by Agency							
Fees and other charges for services and special benefits							
Medicare premiums and other charges	54,266	57,269	59,645	63,948	70,202	77,714	85,324
Veterans life insurance (trust funds)	135	123	110	98	86	74	65
Other	8,045	8,489	9,118	9,645	10,233	10,897	11,609
Subtotal, Fees and other charges for services and special benefits	62,446	65,881	68,873	73,691	80,521	88,685	96,998
Interest							
Other interest	604	603	79	1,098	1,337	1,016	717
Dividends and other earnings	–6,606	–6,492	506	613	607	583	535
Subtotal, Interest	–6,002	–5,889	585	1,711	1,944	1,599	1,252

Table 18–6. OFFSETTING RECEIPTS BY TYPE—Continued
(In Millions of Dollars)

Source	2008 Actual	Estimate 2009	2010	2011	2012	2013	2014
Realization upon loans and investments							
Negative and downward reestimates	......	164	......	......	......	......	......
Other	1	1	1	1	1	1	1
Subtotal, Realization upon loans and investments	1	165	1	1	1	1	1
Sale of Government property							
Military assistance program sales (trust funds)	21,831	24,014	21,613	19,300	18,700	17,350	16,120
Subtotal, Sale of Government property	21,831	24,014	21,613	19,300	18,700	17,350	16,120
Other miscellaneous transactions							
Recoveries and refunds	8,954	8,854	9,154	9,454	9,754	9,954	10,154
Proposed Legislation (Non-PAYGO)	......	......	......	70	134	133	134
Proposed Legislation (PAYGO)	......	......	......	415	410	271	263
Miscellaneous receipt accounts	51	54	56	59	63	10	70
Subtotal, Other miscellaneous transactions	9,005	8,908	9,210	9,998	10,361	10,368	10,621
Subtotal, Distributed by Agency	87,281	93,079	100,282	104,701	111,527	118,003	124,992
Subtotal, Trust Fund Receipts	87,281	93,079	100,282	104,701	111,527	118,003	124,992
Subtotal, Proprietary Receipts	149,337	293,424	278,288	273,577	275,066	276,689	280,877
Offsetting Governmental Receipts							
Federal Fund Receipts							
Distributed by Agency							
Other miscellaneous transactions							
Regulatory Fees	7,280	7,180	7,434	7,631	7,784	7,932	8,084
Proposed Legislation (PAYGO)	......	......	–1,013	–1,053	–1,096	–1,140	–1,186
Other	165	163	163	164	165	167	168
Subtotal, Other miscellaneous transactions	7,445	7,343	6,584	6,742	6,853	6,959	7,066
Subtotal, Distributed by Agency	7,445	7,343	6,584	6,742	6,853	6,959	7,066
Undistributed by Agency							
Other miscellaneous transactions							
Spectrum auction proceeds	1,779	17,191	750	100	200	......	......
Proposed Legislation (PAYGO)	......	50	300	375	450	750	750
Subtotal, Other miscellaneous transactions	1,779	17,241	1,050	475	650	750	750
Subtotal, Undistributed by Agency	1,779	17,241	1,050	475	650	750	750
Subtotal, Federal Fund Receipts	9,224	24,584	7,634	7,217	7,503	7,709	7,816
Trust Fund Receipts							
Distributed by Agency							
Other miscellaneous transactions							
Regulatory Fees	6	11	7	7	7	7	7
Subtotal, Trust Fund Receipts	6	11	7	7	7	7	7
Subtotal, Offsetting Governmental Receipts	9,230	24,595	7,641	7,224	7,510	7,716	7,823
Subtotal, On Budget	158,567	318,019	285,929	280,801	282,576	284,405	288,700
Off Budget							
Proprietary Receipts							
Trust Fund Receipts							
Distributed by Agency							
Fees and other charges for services and special benefits							
Other	21	23	25	26	27	26	27

Table 18–6. OFFSETTING RECEIPTS BY TYPE—Continued
(In Millions of Dollars)

Source	2008 Actual	Estimate					
		2009	2010	2011	2012	2013	2014
Other miscellaneous transactions							
Recoveries and refunds	82	57	57	57	57	57	57
Subtotal, Off Budget	103	80	82	83	84	83	84
Subtotal, Receipts from the Public	158,670	318,099	286,011	280,884	282,660	284,488	288,784
Grand Total Offsetting Receipts	754,999	951,187	958,650	977,027	1,015,640	1,076,208	1,135,066

19. TAX EXPENDITURES

The Congressional Budget Act of 1974 (Public Law 93-344) requires that a list of "tax expenditures" be included in the budget. Tax expenditures are defined in the law as "revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of liability." These exceptions may be viewed as alternatives to other policy instruments, such as spending or regulatory programs.

Identification and measurement of tax expenditures depends importantly on the baseline tax system against which the actual tax system is compared. The tax expenditure estimates presented in this chapter are patterned on a comprehensive income tax, which defines income as the sum of consumption and the change in net wealth in a given period of time.

An important assumption underlying each tax expenditure estimate reported below is that other parts of the Tax Code remain unchanged. The estimates would be different if tax expenditures were changed simultaneously because of potential interactions among provisions. For that reason, this chapter does not present a grand total for the estimated tax expenditures.

Tax expenditures relating to the individual and corporate income taxes are estimated for fiscal years 2008–2014 using two methods of accounting: current revenue effects and present value effects. The present value approach provides estimates of the revenue effects for tax expenditures that generally involve deferrals of tax payments into the future.

A discussion of performance measures and economic effects related to the assessment of the effect of tax expenditures on the achievement of program performance goals is presented in Appendix A. This section is a complement to the Government-wide performance plan required by the Government Performance and Results Act of 1993.

TAX EXPENDITURES IN THE INCOME TAX

Tax Expenditure Estimates

All tax expenditure estimates presented here are based upon current tax law enacted as of December 31, 2008. Expired or repealed provisions are not listed if their revenue effects result only from taxpayer activity occurring before fiscal year 2008. The estimates reflect preliminary 2010 Budget economic assumptions. Legislation enacted in 2009 is not reflected in the current exercise.

The total revenue effects for tax expenditures for fiscal years 2008–2014 are displayed according to the Budget's functional categories in Table 19–1. Descriptions of the specific tax expenditure provisions follow the tables of estimates and the discussion of general features of the tax expenditure concept.

Two baseline concepts—the normal tax baseline and the reference tax law baseline—are used to identify and estimate tax expenditures.[1] For the most part, the two concepts coincide. However, items treated as tax expenditures under the normal tax baseline, but not the reference tax law baseline, are indicated by the designation "normal tax method" in the tables. The revenue effects for these items are zero using the reference tax rules. The alternative baseline concepts are discussed in detail following the tables.

Table 19–2 reports the respective portions of the total revenue effects that arise under the individual and corporate income taxes separately. The location of the estimates under the individual and corporate headings does not imply that these categories of filers benefit from the special tax provisions in proportion to the respective tax expenditure amounts shown. Rather, these breakdowns show the specific tax accounts through which the various provisions are cleared. The ultimate beneficiaries of corporate tax expenditures could be shareholders, employees, customers, or other providers of capital, depending on economic forces.

Table 19–3 ranks the major tax expenditures by the size of their 2010–2014 revenue effect. The first column provides the number of the provision in order to cross reference this table to Tables 19–1 and 19–2, as well as to the descriptions below. Outlay Equivalent Estimates of Income Tax Expenditures, which were included in the 2007 and prior volumes of *Analytical Perspectives*, are no longer included in this chapter.

In the 2005 *Analytical Perspectives*, the treatment of capital gains was changed to exclude the portion of capital gains derived from corporate equity from the estimate of the tax expenditure for preferential tax rates on capital gains under the normal tax baseline. In addition, the preferential rates on qualified dividend income that were enacted in the Jobs and Growth Tax Relief Reconciliation Act of 2003 were not identified as a tax expenditure. The estimate of other tax expenditures related to saving and retirement plans were also affected by this change in methodology. The Administration plans a review of tax expenditures for future *Analytical Perspectives* volumes. In anticipation of that review, this chapter shows supple-

[1] These baseline concepts are thoroughly discussed in Special Analysis G of the 1985 Budget, where the former is referred to as the pre-1983 method and the latter the post-1982 method.

mental estimates in Table 19-4 of the full tax expenditure for capital gains and dividends under the pre-2005 methodology.

Interpreting Tax Expenditure Estimates

The estimates shown for individual tax expenditures in Tables 19–1, 19–2, and 19–3 do not necessarily equal the increase in Federal revenues (or the change in the budget balance) that would result from repealing these special provisions, for the following reasons.

First, eliminating a tax expenditure may have incentive effects that alter economic behavior. These incentives can affect the resulting magnitudes of the activity or of other tax provisions or Government programs. For example, if capital gains were taxed at ordinary rates, capital gain realizations would be expected to decline, resulting in lower tax receipts. Such behavioral effects are not reflected in the estimates.

Second, tax expenditures are interdependent even without incentive effects. Repeal of a tax expenditure provision can increase or decrease the tax revenues associated with other provisions. For example, even if behavior does not change, repeal of an itemized deduction could increase the revenue costs from other deductions because some taxpayers would be moved into higher tax brackets. Alternatively, repeal of an itemized deduction could lower the revenue cost from other deductions if taxpayers are led to claim the standard deduction instead of itemizing. Similarly, if two provisions were repealed simultaneously, the increase in tax liability could be greater or less than the sum of the two separate tax expenditures, because each is estimated assuming that the other remains in force. In addition, the estimates reported in Table 19–1 are the totals of individual and corporate income tax revenue effects reported in Table 19–2 and do not reflect any possible interactions between individual and corporate income tax receipts. For this reason, the estimates in Table 19–1 should be regarded as approximations.

Present-Value Estimates

The annual value of tax expenditures for tax deferrals is reported on a cash basis in all tables except Table 19–5. Cash-based estimates reflect the difference between taxes deferred in the current year and incoming revenues that are received due to deferrals of taxes from prior years. Although such estimates are useful as a measure of cash flows into the Government, they do not accurately reflect the true economic cost of these provisions. For example, for a provision where activity levels have changed, so that incoming tax receipts from past deferrals are greater than deferred receipts from new activity, the cash-basis tax expenditure estimate can be negative, despite the fact that in present-value terms current deferrals have a real cost to the Government. Alternatively, in the case of a newly enacted deferral provision, a cash-based estimate can overstate the real effect on receipts to the Government because the newly deferred taxes will ultimately be received. Present-value estimates, which are a useful complement to the cash-basis estimates for provisions involving deferrals, are discussed below.

Discounted present-value estimates of revenue effects are presented in Table 19–5 for certain provisions that involve tax deferrals or other long-term revenue effects. These estimates complement the cash-based tax expenditure estimates presented in the other tables.

The present-value estimates represent the revenue effects, net of future tax payments that follow from activities undertaken during calendar year 2008 which cause the deferrals or other long-term revenue effects. For instance, a pension contribution in 2008 would cause a deferral of tax payments on wages in 2008 and on pension fund earnings on this contribution (e.g., interest) in later years. In some future year, however, the 2008 pension contribution and accrued earnings will be paid out and taxes will be due; these receipts are included in the present-value estimate. In general, this conceptual approach is similar to the one used for reporting the budgetary effects of credit programs, where direct loans and guarantees in a given year affect future cash flows.

Tax Expenditure Baselines

A tax expenditure is an exception to baseline provisions of the tax structure that usually results in a reduction in the amount of tax owed. The 1974 Congressional Budget Act, which mandated the tax expenditure budget, did not specify the baseline provisions of the tax law. As noted previously, deciding whether provisions are exceptions, therefore, is a matter of judgment. As in prior years, most of this year's tax expenditure estimates are presented using two baselines: the normal tax baseline and the reference tax law baseline. An exception is provided for the lower tax rate on dividends and capital gains on corporate shares as discussed below. Tax expenditures may take the form of credits, deductions, special exceptions and allowances, and reduce tax liability below the level implied by the baseline tax system.

The normal tax baseline is patterned on a practical variant of a comprehensive income tax, which defines income as the sum of consumption and the change in net wealth in a given period of time. The normal tax baseline allows personal exemptions, a standard deduction, and deduction of expenses incurred in earning income. It is not limited to a particular structure of tax rates, or by a specific definition of the taxpaying unit.

The reference tax law baseline is also patterned on a comprehensive income tax, but it is closer to existing law. Reference law tax expenditures are limited to special exceptions in the Tax Code that serve programmatic functions. Provisions under the reference law baseline are generally tax expenditures under the normal tax baseline, but the reverse is not always true.

Both the normal and reference tax baselines allow several major departures from a pure comprehensive income

Table 19–1. ESTIMATES OF TOTAL INCOME TAX EXPENDITURES FOR FISCAL YEARS 2008-2014

(In millions of dollars)

		Total from corporations and individuals							
		2008	2009	2010	2011	2012	2013	2014	2010–14
National Defense									
1	Exclusion of benefits and allowances to armed forces personnel	11,190	11,710	10,210	10,550	10,900	11,270	11,660	54,590
International affairs:									
2	Exclusion of income earned abroad by U.S. citizens	5,070	5,320	5,590	5,870	6,160	6,470	6,790	30,880
3	Exclusion of certain allowances for Federal employees abroad	880	920	970	1,020	1,070	1,120	1,180	5,360
4	Inventory property sales source rules exception	2,200	2,440	2,640	2,860	3,100	3,360	3,640	15,600
5	Deferral of income from controlled foreign corporations (normal tax method)	31,580	30,960	32,720	33,870	34,490	33,930	34,130	169,140
6	Deferred taxes for financial firms on certain income earned overseas	5,570	5,460	5,770	5,980	6,090	5,990	6,020	29,850
General science, space, and technology:									
7	Expensing of research and experimentation expenditures (normal tax method)	5,180	3,820	3,500	4,560	5,720	6,690	6,930	27,400
8	Credit for increasing research activities	7,440	8,010	5,880	3,850	3,080	2,460	1,960	17,230
Energy:									
9	Expensing of exploration and development costs, fuels	1,650	2,480	2,390	1,850	1,580	1,260	940	8,020
10	Excess of percentage over cost depletion, fuels	920	1,360	1,350	1,370	1,380	1,390	1,400	6,890
11	Alternative fuel production credit	590	70	80	10	10	0	0	100
12	Exception from passive loss limitation for working interests in oil and gas properties	10	10	10	10	10	10	10	50
13	Capital gains treatment of royalties on coal	110	110	140	110	110	130	140	630
14	Exclusion of interest on energy facility bonds	10	20	20	30	30	30	30	140
15	New technology credit	920	1,130	1,180	1,180	1,150	1,140	1,120	5,770
16	Energy investment credit	50	50	50	50	50	50	50	250
17	Alcohol fuel credits[1]	50	60	90	190	390	230	0	900
18	Bio-Diesel and small agri-biodiesel producer tax credits[2]	40	30	20	0	0	0	0	20
19	Tax credit and deduction for clean-fuel burning vehicles	170	90	80	40	10	60	100	290
20	Exclusion of utility conservation subsidies	120	120	110	110	110	110	110	550
21	Credit for holding clean renewable energy bonds	40	70	70	70	70	70	70	350
22	Deferral of gain from dispositions of transmission property to implement FERC restructuring policy	–30	–50	–120	–320	–400	–480	–490	–1,810
23	Credit for investment in clean coal facilities	30	200	290	260	240	230	210	1,230
24	Temporary 50% expensing for equipment used in the refining of liquid fuels	350	750	890	900	800	700	630	3,920
25	Natural gas distribution pipelines treated as 15-year property	80	90	110	120	110	100	90	530
26	Amortize all geological and geophysical expenditures over 2 years	20	90	130	120	90	60	40	440
27	Allowance of deduction for certain energy efficient commercial building property	170	200	210	190	200	20	60	680
28	Credit for construction of new energy efficient homes	30	20	10	0	0	0	0	10
29	Credit for energy efficiency improvements to existing homes	230	380	150	0	0	0	0	150
30	Credit for energy efficient appliances	120	130	130	50	0	0	0	180
31	Credit for residential purchases/installations of solar and fuel cells	20	30	20	0	0	0	0	20
32	Partial expensing for advanced mine safety equipment	20	0	0	0	0	0	0	0
33	Qualified energy conservation bonds	0	0	10	30	40	40	40	160
Natural resources and environment:									
34	Expensing of exploration and development costs, nonfuel minerals	210	220	230	230	240	250	250	1,200
35	Excess of percentage over cost depletion, nonfuel minerals	720	740	770	790	810	850	860	4,080
36	Exclusion of interest on bonds for water, sewage, and hazardous waste facilities	170	370	390	410	450	460	470	2,180
37	Capital gains treatment of certain timber income	110	110	140	110	110	130	140	630
38	Expensing of multiperiod timber growing costs	290	290	310	310	320	340	340	1,620
39	Tax incentives for preservation of historic structures	480	500	520	550	580	610	640	2,900
40	Expensing of capital costs with respect to complying with EPA sulfur regulations	30	50	30	–10	0	0	0	20
41	Exclusion of gain or loss on sale or exchange of certain brownfield sites	30	40	40	40	30	30	30	170
42	Industrial CO_2 capture and sequestration tax credit	0	0	0	40	130	240	290	700
43	Deduction for endangered species recovery expenditures	0	10	20	20	30	30	30	130
Agriculture:									
44	Expensing of certain capital outlays	110	110	110	120	120	120	120	590
45	Expensing of certain multiperiod production costs	80	80	80	80	90	90	90	430
46	Treatment of loans forgiven for solvent farmers	10	10	10	20	20	20	20	90
47	Capital gains treatment of certain income	1,160	1,130	1,390	1,190	1,140	1,300	1,460	6,480
48	Income averaging for farmers	80	80	80	80	80	80	80	400
49	Deferral of gain on sale of farm refiners	20	20	20	20	20	20	20	100

Table 19–1. ESTIMATES OF TOTAL INCOME TAX EXPENDITURES FOR FISCAL YEARS 2008-2014—Continued

(In millions of dollars)

		Total from corporations and individuals							
		2008	2009	2010	2011	2012	2013	2014	2010–14
	Commerce and housing:								
	Financial institutions and insurance:								
50	Exemption of credit union income	1140	1190	1230	1280	1330	1380	1430	6,650
51	Exclusion of interest on life insurance savings	21,190	22,790	24,450	26,770	29,830	32,580	34,860	148,490
52	Special alternative tax on small property and casualty insurance companies	40	40	40	40	50	50	60	240
53	Tax exemption of certain insurance companies owned by tax-exempt organizations	190	190	200	200	210	210	220	1,040
54	Small life insurance company deduction	50	50	50	50	50	50	50	250
55	Exclusion of interest spread of financial institutions	270	220	240	280	290	310	320	1,930
	Housing:								
56	Exclusion of interest on owner-occupied mortgage subsidy bonds	460	990	1,030	1,110	1,180	1,220	1,270	5,810
57	Exclusion of interest on rental housing bonds	410	890	930	1,000	1,060	1,090	1,120	5,200
58	Deductibility of mortgage interest on owner-occupied homes	88,500	97,280	107,980	119,750	131,230	139,990	147,130	646,080
59	Deductibility of State and local property tax on owner-occupied homes	29,130	20,850	14,980	24,550	30,630	31,870	32,540	134,570
60	Deferral of income from installment sales	1,230	1,250	1,370	1,500	1,650	1,810	1,950	8,280
61	Capital gains exclusion on home sales	30,090	27,980	30,460	39,530	49,550	54,720	60,440	234,700
62	Exclusion of net imputed rental income	–1,720	–5,850	–2,200	2,230	3,680	4,390	5,720	13,820
63	Exception from passive loss rules for $25,000 of rental loss	8,430	8,840	9,160	9,580	10,090	10,240	10,620	49,690
64	Credit for low-income housing investments	3,210	3,750	4,340	4,920	5,520	6,130	6,730	27,640
65	Accelerated depreciation on rental housing (normal tax method)	9,690	10,150	10,770	13,620	14,610	15,770	17,090	71,860
66	Discharge of mortgage indebtedness	310	330	260	190	140	80	0	670
67	Credit for first-time homebuyer	9,530	1,230	–1,350	–1,400	–1,400	–1,060	–910	–6,120
	Commerce:								
68	Cancellation of indebtedness	60	30	20	40	50	40	30	180
69	Exceptions from imputed interest rules	50	50	50	50	50	50	50	250
70	Capital gains (except agriculture, timber, and coal)[3]	24,240	23,640	28,920	24,840	23,890	27,270	30,480	135,400
71	Capital gains exclusion of small corporation stock	60	60	60	200	340	350	370	1,320
72	Step-up basis of capital gains at death	21,590	19,530	20,830	25,210	31,720	34,100	36,650	148,510
73	Carryover basis of capital gains on gifts	670	730	710	2,370	1,030	1,370	1,470	6,950
74	Ordinary income treatment of loss from small business corporation stock sale	50	50	60	60	60	60	60	300
75	Accelerated depreciation of buildings other than rental housing (normal tax method)	–6,640	–6,640	–6,560	–7,370	–7,360	–7,360	–7,340	–35,990
76	Accelerated depreciation of machinery and equipment (normal tax method)	55,890	–11,140	–3,820	–1,190	6,010	10,940	15,130	27,070
77	Expensing of certain small investments (normal tax method)	930	90	910	–3,400	–1,680	–850	–260	–5,280
78	Graduated corporation income tax rate (normal tax method)	2,460	2,460	2,880	3,090	3,120	3,300	3,310	15,700
79	Exclusion of interest on small issue bonds	140	320	330	350	380	390	400	1,850
80	Deduction for U.S. production activities	10,660	10,820	14,140	16,890	17,910	19,010	20,010	87,960
81	Special rules for certain film and TV production	70	60	–50	–100	–80	–50	–40	–320
	Transportation:								
82	Deferral of tax on shipping companies	20	20	20	20	20	20	20	100
83	Exclusion of reimbursed employee parking expenses	2,920	3,000	3,120	3,270	3,400	3,520	3,630	16,940
84	Exclusion for employer-provided transit passes	480	500	530	570	600	630	660	2,990
85	Tax credit for certain expenditures for maintaining railroad tracks	180	180	70	20	10	10	0	110
86	Exclusion of interest on bonds for Financing of Highway Projects and rail-truck transfer facilities	80	90	100	100	90	60	60	410
	Community and regional development:								
87	Investment credit for rehabilitation of structures (other than historic)	40	40	40	40	40	50	50	220
88	Exclusion of interest for airport, dock, and similar bonds	380	820	850	920	990	1,020	1,050	4,830
89	Exemption of certain mutuals' and cooperatives' income	70	70	70	70	70	80	80	370
90	Empowerment zones and renewal communities	–1,650	–1,960	–1,150	–420	–680	–830	–940	–4,020
91	New markets tax credit	990	1,110	1,050	920	810	580	300	3,660
92	Expensing of environmental remediation costs	590	290	20	–140	–140	–140	–130	–530
93	Credit to holders of Gulf Tax Credit Bonds	10	30	80	80	70	50	50	330
	Education, training, employment, and social services:								
	Education:								
94	Exclusion of scholarship and fellowship income (normal tax method)	2,000	2,080	2,160	2,250	2,340	2,440	2,540	11,730
95	HOPE tax credit	3,770	3,800	3,890	4,650	5,100	5,340	5,580	24,560
96	Lifetime Learning tax credit	2,470	2,460	2,510	2,980	3,260	3,410	3,570	15,730
97	Education Individual Retirement Accounts	30	40	60	70	80	80	90	380
98	Deductibility of student-loan interest	1,250	1,260	1,270	1,220	970	980	990	5,430

Table 19–1. ESTIMATES OF TOTAL INCOME TAX EXPENDITURES FOR FISCAL YEARS 2008-2014—Continued
(In millions of dollars)

		Total from corporations and individuals							
		2008	2009	2010	2011	2012	2013	2014	2010–14
99	Deduction for higher education expenses	1,550	1,680	1,430	0	0	0	0	1,430
100	State prepaid tuition plans	1,030	1,250	1,480	1,700	1,900	2,030	2,140	9,250
101	Exclusion of interest on student-loan bonds	210	470	490	530	560	590	600	2,770
102	Exclusion of interest on bonds for private nonprofit educational facilities	860	1,870	1,960	2,110	2,260	2,320	2,390	11,040
103	Credit for holders of zone academy bonds	160	170	170	170	160	140	130	770
104	Exclusion of interest on savings bonds redeemed to finance educational expenses	20	20	20	20	20	20	20	100
105	Parental personal exemption for students age 19 or over	4,690	2,670	1,660	2,680	3,060	2,860	2,640	12,900
106	Deductibility of charitable contributions (education)	4,330	4,880	5,270	5,670	6,110	6,600	7,010	30,660
107	Exclusion of employer-provided educational assistance	650	680	710	40	0	0	0	750
108	Special deduction for teacher expenses	180	180	160	0	0	0	0	160
109	Discharge of student loan indebtedness	20	20	20	20	20	20	20	100
	Training, employment, and social services:								
110	Work opportunity tax credit	490	740	790	700	520	260	110	2,380
111	Welfare-to-work tax credit	80	50	20	10	10	0	0	40
112	Employer provided child care exclusion	940	1,240	1,480	1,490	1,550	1,620	1,700	7,840
113	Employer-provided child care credit	20	20	30	10	0	0	0	40
114	Assistance for adopted foster children	430	450	480	510	550	580	620	2,740
115	Adoption credit and exclusion	470	480	500	470	90	100	100	1,260
116	Exclusion of employee meals and lodging (other than military)	970	1,010	1,060	1,110	1,170	1,230	1,300	5,870
117	Child credit[4]	28,420	27,250	27,032	20,250	10,072	9,580	9,120	76,054
118	Credit for child and dependent care expenses	3,020	3,670	2,070	1,920	1,710	1,600	1,520	8,820
119	Credit for disabled access expenditures	30	30	30	30	30	30	30	150
120	Deductibility of charitable contributions, other than education and health	38,200	43,370	46,980	50,550	54,600	59,070	62,790	273,990
121	Exclusion of certain foster care payments	480	480	480	480	480	480	480	2,400
122	Exclusion of parsonage allowances	550	580	620	660	700	740	790	3,510
123	Employee retention credit for employers in certain Federal disaster areas	30	140	40	0	0	0	0	40
124	Exclusion for benefits provided to volunteer EMS and firefighters	20	80	80	60	0	0	0	140
125	Temporary income exclusion for employer provided lodging in Midwestern disaster area								
Health:									
126	Exclusion of employer contributions for medical insurance premiums and medical care[5]	131,080	142,010	155,050	169,190	184,860	199,900	214,740	923,740
127	Self-employed medical insurance premiums	5,080	5,470	6,020	6,680	7,490	8,250	9,100	37,540
128	Medical Savings Accounts / Health Savings Accounts	1,830	1,930	2,030	2,130	2,240	2,350	2,470	11,220
129	Deductibility of medical expenses	9,320	9,660	10,760	12,540	14,750	16,850	19,260	74,160
130	Exclusion of interest on hospital construction bonds	1,350	2,940	3,070	3,310	3,530	3,640	3,750	17,300
131	Deductibility of charitable contributions (health)	4,310	4,890	5,300	5,700	6,160	6,660	7,080	30,900
132	Tax credit for orphan drug research	290	320	360	410	460	510	570	2,310
133	Special Blue Cross/Blue Shield deduction	620	600	650	660	670	680	690	3,350
134	Tax credit for health insurance purchased by certain displaced and retired individuals[6]	0	10	10	10	10	10	10	50
135	Distributions from retirement plans for premiums for health and long-term care insurance	240	280	310	340	380	420	460	1,910
Income security:									
136	Exclusion of railroad retirement system benefits	390	390	370	370	370	360	350	1,820
137	Exclusion of workers' compensation benefits	5,830	5,920	6,010	6,110	6,200	6,300	6,400	31,020
138	Exclusion of public assistance benefits (normal tax method)	560	590	620	650	690	740	780	3,480
139	Exclusion of special benefits for disabled coal miners	40	40	40	40	40	40	40	200
140	Exclusion of military disability pensions	110	130	150	180	220	260	320	1,130
	Net exclusion of pension contributions and earnings:								
141	Employer plans	46,120	45,670	44,370	42,420	42,230	41,620	43,600	214,240
142	401(k) plans	47,000	50,000	53,000	66,000	72,000	75,000	77,000	343,000
143	Individual Retirement Accounts	11,700	12,700	13,500	14,800	16,500	17,000	17,200	79,000
144	Low and moderate income savers credit	890	980	1,050	1,050	1,010	940	920	4,970
145	Keogh plans	12,000	13,000	14,000	15,000	17,000	20,000	21,000	87,000
	Exclusion of other employee benefits:								
146	Premiums on group term life insurance	2,230	2,250	2,320	2,460	2,480	2,490	2,510	12,260
147	Premiums on accident and disability insurance	310	320	330	340	350	360	360	1,740
148	Income of trusts to finance supplementary unemployment benefits	30	30	40	40	50	50	50	230
149	Special ESOP rules	1,600	1,700	1,800	1,900	1,900	2,000	2,100	10,600
150	Additional deduction for the blind	40	30	30	40	50	50	50	220
151	Additional deduction for the elderly	2,250	1,940	1,940	2,730	3,290	3,470	3,570	15,000
152	Tax credit for the elderly and disabled	10	10	10	10	10	10	10	50

Table 19–1. ESTIMATES OF TOTAL INCOME TAX EXPENDITURES FOR FISCAL YEARS 2008-2014—Continued

(In millions of dollars)

		Total from corporations and individuals							
		2008	2009	2010	2011	2012	2013	2014	2010–14
153	Deductibility of casualty losses	540	580	620	690	740	780	810	3,640
154	Earned income tax credit [7]	5,380	5,740	6,130	6,390	8,530	8,790	9,140	38,980
155	Additional exemption for housing Hurricane Katrina displaced individuals	20	10	0	0	0	0	0	0
Social Security:									
	Exclusion of social security benefits:								
156	Social Security benefits for retired workers	19,700	20,610	19,330	20,420	23,130	25,350	25,750	113,980
157	Social Security benefits for disabled	5,420	5,770	5,840	6,230	6,750	7,090	7,140	33,050
158	Social Security benefits for dependents and survivors	3,570	3,610	3,280	3,350	3,670	3,880	3,800	17,980
Veterans benefits and services:									
159	Exclusion of veterans death benefits and disability compensation	3,870	3,950	4,140	4,480	4,850	5,260	5,690	24,420
160	Exclusion of veterans pensions	180	180	180	190	220	220	220	1,030
161	Exclusion of GI bill benefits	280	280	290	300	330	330	340	1,590
162	Exclusion of interest on veterans housing bonds	10	20	30	30	30	30	30	150
General purpose fiscal assistance:									
163	Exclusion of interest on public purpose State and local bonds	11,110	24,610	25,730	27,820	29,810	30,700	31,620	145,680
164	Deductibility of nonbusiness State and local taxes other than on owner-occupied homes	49,140	36,270	30,290	48,750	60,350	63,330	65,390	268,110
Interest:									
165	Deferral of interest on U.S. savings bonds	1,310	1,320	1,330	1,380	1,470	1,490	1,500	7,170
Addendum: Aid to State and local governments:									
	Deductibility of:								
	Property taxes on owner-occupied homes	29,130	20,850	14,980	24,550	30,630	31,870	32,540	134,570
	Nonbusiness State and local taxes other than on owner-occupied homes	49,140	36,270	30,290	48,750	60,350	63,330	65,390	268,110
	Exclusion of interest on State and local bonds for:								
	Public purposes	11,110	24,610	25,730	27,820	29,810	30,700	31,620	145,680
	Energy facilities	10	20	20	30	30	30	30	140
	Water, sewage, and hazardous waste disposal facilities	170	370	390	410	450	460	470	2,180
	Small-issues	140	320	330	350	380	390	400	1,850
	Owner-occupied mortgage subsidies	460	990	1,030	1,110	1,180	1,220	1,270	5,810
	Rental housing	410	890	930	1,000	1,060	1,090	1,120	5,200
	Airports, docks, and similar facilities	380	820	850	920	990	1,020	1,050	4,830
	Student loans	210	470	490	530	560	590	600	2,770
	Private nonprofit educational facilities	860	1,870	1,960	2,110	2,260	2,320	2,390	11,040
	Hospital construction	1,350	2,940	3,070	3,310	3,530	3,640	3,750	17,300
	Veterans' housing	10	20	30	30	30	30	30	150
	GO Zone and GO Zone mortgage	0	10	10	10	10	10	20	60
	Credit for holders of zone academy bonds	160	170	170	170	160	140	130	770

Note: Provisions with estimates denoted normal tax method have no revenue loss under the reference tax law method.

All estimates have been rounded to the nearest $10 million. Provisions with estimates that rounded to zero in each year are not included in the table.

[1] In addition, the alcohol fuel credit results in a reduction in excise tax receipts (in millions of dollars) as follows: 2008 $4,410; 2009 $4,730; 2010 $5,230; 2011 $1,630; 2012 $0; 2013 $0; 2014 $0.

[2] In addition, the bio-diesel producer tax credit results in a reduction in excise tax receipts (in millions of dollars) as follows: 2008 $940; 2009 $780; 2010 $70; 2011 $60; 2012 $40; 2013 $40; 2014 $10.

[3] An alternative calculation for this tax expenditure based on pre-2005 methodology is shown in Table 19-4.

[4] The figures in the table indicate the effect of the child tax credit on receipts. The effect of the credit on outlays (in millions of dollars) is as follows: 2008 $34,020 2009 $26,940; 2010 $17,230; 2011 $16,740; 2012 $1,510; 2013 $1,490; and 2014 $1,480.

[5] The figures in the table indicate the effect on income taxes of the employer contributions for health. In addition, the effect on payroll tax receipts (in millions of dollars) is as follows: 2008 $83,150; 2009 $86,490; 2010 $91,460; 2011 $97,820; 2012 $104,660; 2013 $111,000; and 2014 $117,560.

[6] The figures in the table indicate the effect of the health insurance tax credit on receipts. The effect of the credit on outlays (in millions of dollars) is as follows: 2007 $100; 2008 $110; 2009 $120; 2010 $130; 2011 $140; 2012 $150; and 2013 $160.

[7] The figures in the table indicate the effect of the earned income tax credit on receipts. The effect of the credit on outlays (in millions of dollars) is as follows: 2008 $45,282; 2009 $42,271; 2010 $49,733; 2011 $50,954; 2012 $45,837; 2013 $46,667; and 2014 $47,974.

Table 19–2. ESTIMATES OF TAX EXPENDITURES FOR THE CORPORATE AND INDIVIDUAL INCOME TAXES FOR FISCAL YEARS 2008-2014
(In millions of dollars)

		Corporations								Individuals							
		2008	2009	2010	2011	2012	2013	2014	2010–14	2008	2009	2010	2011	2012	2013	2014	2010–14
National Defense																	
1	Exclusion of benefits and allowances to Armed Forces personnel									11,190	11,710	10,210	10,550	10,900	11,270	11,660	54,590
International affairs:																	
2	Exclusion of income earned abroad by U.S. citizens									5,070	5,320	5,590	5,870	6,160	6,470	6,790	30,880
3	Exclusion of certain allowances for Federal employees abroad									880	920	970	1020	1070	1120	1180	5,360
4	Inventory property sales source rules exception	2,200	2,440	2,640	2,860	3,100	3,360	3,640	15,600								
5	Deferral of income from controlled foreign corporations (normal tax method)	31,580	30,960	32,720	33,870	34,490	33,930	34,130	169,140								
6	Deferred taxes for financial firms on certain income earned overseas	5,570	5,460	5,770	5,980	6,090	5,990	6,020	29,850								
General science, space, and technology:																	
7	Expensing of research and experimentation expenditures (normal tax method)	4,930	3,560	3,220	4,250	5,390	6,330	6,550	25,740	250	260	280	310	330	360	380	1,660
8	Credit for increasing research activities	7,080	7,620	5,760	3,850	3,080	2,460	1,960	17,110	360	390	120	0	0	0	0	120
Energy:																	
9	Expensing of exploration and development costs, fuels	1,380	2,070	1,990	1,540	1,320	1,050	780	6,680	270	410	400	310	260	210	160	1,340
10	Excess of percentage over cost depletion, fuels	830	1,230	1,220	1,240	1,250	1,260	1,270	6,240	90	130	130	130	130	130	130	650
11	Alternative fuel production credit	570	70	80	10	10	0	0	100	20	0	0	0	0	0	0	0
12	Exception from passive loss limitation for working interests in oil and gas properties									10	10	10	10	10	10	10	50
13	Capital gains treatment of royalties on coal									110	110	140	110	110	130	140	630
14	Exclusion of interest on energy facility bonds	0	10	10	10	10	10	10	50	10	10	10	20	20	20	20	90
15	Energy production credit	840	1,030	1,070	1,070	1,050	1,040	1,020	5,250	80	100	110	110	100	100	100	520
16	Energy investment credit	30	30	30	30	30	30	30	150	20	20	20	20	20	20	20	100
17	Alcohol fuel credits [1]	40	50	70	160	320	160	0	710	10	10	20	30	70	70	0	190
18	Bio-Diesel and small agri-biodiesel producer tax credits [2]	30	20	20	0	0	0	0	20	10	10	0	0	0	0	0	0
19	Tax credit and deduction for clean-fuel burning vehicles	60	30	50	10	–20	10	40	90	110	60	30	30	30	50	60	200
20	Exclusion of utility conservation subsidies	0	0	0	0	0	0	0	0	120	120	110	110	110	110	110	550
21	Credit for holding clean renewable energy bonds	10	20	20	20	20	20	20	100	30	50	50	50	50	50	50	250
22	Deferral of gain from dispositions of transmission property to implement FERC restructuring policy	–30	–50	–120	–320	–400	–480	–490	–1,810								
23	Credit for investment in clean coal facilities	30	200	290	260	240	230	210	1,230								
24	Temporary 50% expensing for equipment used in the refining of liquid fuels	350	750	890	900	800	700	630	3,920								
25	Natural gas distribution pipelines treated as 15-year property	80	90	110	120	110	100	90	530								
26	Amortize all geological and geophysical expenditures over 2 years	20	70	100	100	70	50	30	350	0	20	30	20	20	10	10	90
27	Allowance of deduction for certain energy efficient commercial building property	130	150	160	130	130	10	40	470	40	50	50	60	70	10	20	210
28	Credit for construction of new energy efficient homes	20	20	10	0	0	0	0	10	10	0	0	0	0	0	0	0
29	Credit for energy efficiency improvements to existing homes									230	380	150	0	0	0	0	150
30	Credit for energy efficient appliances	120	130	130	50	0	0	0	180								0
31	Credit for residential energy efficient property									20	30	20	0	0	0	0	20
32	Partial expensing for advanced mine safety equipment	20	0	0	0	0	0	0	0								
33	Qualified energy conservation bonds	0	0	0	10	10	10	10	40	0	0	10	20	30	30	30	120
Natural resources and environment:																	
34	Expensing of exploration and development costs, nonfuel minerals	210	220	230	230	240	250	250	1,200								0
35	Excess of percentage over cost depletion, nonfuel minerals	700	720	750	770	790	820	830	3,960	20	20	20	20	20	30	30	120
36	Exclusion of interest on bonds for water, sewage, and hazardous waste facilities	70	120	130	130	140	140	140	680	100	250	260	280	310	320	330	1,500
37	Capital gains treatment of certain timber income									110	110	140	110	110	130	140	630
38	Expensing of multiperiod timber growing costs	180	180	190	190	200	210	210	1,000	110	110	120	120	120	130	130	620
39	Tax incentives for preservation of historic structures	380	390	410	430	460	480	500	2,280	100	110	110	120	120	130	140	620
40	Expensing of capital costs with respect to complying with EPA sulfur regulations	30	50	30	–10	0	0	0	20	0	0	0	0	0	0	0	0
41	Exclusion of gain or loss on sale or exchange of certain brownfield sites	20	30	30	30	20	20	20	120	10	10	10	10	10	10	10	50
42	Industrial CO_2 capture and sequestration tax credit	0	0	0	40	130	240	290	700								
43	Deduction for endangered species recovery expenditures	0	10	20	20	30	30	30	130								
Agriculture:																	
44	Expensing of certain capital outlays	10	10	10	10	10	10	10	50	100	100	100	110	110	110	110	540
45	Expensing of certain multiperiod production costs	10	10	10	10	10	10	10	50	70	70	70	70	80	80	80	380
46	Treatment of loans forgiven for solvent farmers									10	10	10	20	20	20	20	90
47	Capital gains treatment of certain income									1,160	1,130	1,390	1,190	1,140	1,300	1,460	6,480
48	Income averaging for farmers									80	80	80	80	80	80	80	400
49	Deferral of gain on sale of farm refiners	20	20	20	20	20	20	20	100								

Table 19–2. ESTIMATES OF TAX EXPENDITURES FOR THE CORPORATE AND INDIVIDUAL INCOME TAXES FOR FISCAL YEARS 2008-2014—Continued

(In millions of dollars)

		Corporations								Individuals							
		2008	2009	2010	2011	2012	2013	2014	2010–14	2008	2009	2010	2011	2012	2013	2014	2010–14
	Commerce and housing:																
	Financial institutions and insurance:																
50	Exemption of credit union income	1140	1190	1230	1280	1330	1380	1430	6,650								
51	Exclusion of interest on life insurance savings	2660	2830	3010	3160	3380	3630	3880	17,060	18530	19960	21440	23610	26450	28950	30980	131,430
52	Special alternative tax on small property and casualty insurance companies	40	40	40	40	50	50	60	240								
53	Tax exemption of certain insurance companies owned by tax-exempt organizations	190	190	200	200	210	210	220	1,040								
54	Small life insurance company deduction	50	50	50	50	50	50	50	250								
55	Exclusion of interest spread of financial institutions									270	220	240	280	290	310	320	1,930
	Housing:																
56	Exclusion of interest on owner-occupied mortgage subsidy bonds	200	330	340	350	360	370	390	1,810	260	660	690	760	820	850	880	4,000
57	Exclusion of interest on rental housing bonds	180	300	310	320	320	330	340	1,620	230	590	620	680	740	760	780	3,580
58	Deductibility of mortgage interest on owner-occupied homes									88,500	97,280	107,980	119,750	131,230	139,990	147,130	646,080
59	Deductibility of State and local property tax on owner-occupied homes									29,130	20,850	14,980	24,550	30,630	31,870	32,540	134,570
60	Deferral of income from installment sales	310	320	320	320	330	330	330	1,630	920	930	1,050	1,180	1,320	1,480	1,620	6,650
61	Capital gains exclusion on home sales									30,090	27,980	30,460	39,530	49,550	54,720	60,440	234,700
62	Exclusion of net imputed rental income									–1,720	–5,850	–2,200	2,230	3,680	4,390	5,720	13,820
63	Exception from passive loss rules for $25,000 of rental loss									8,430	8,840	9,160	9,580	10,090	10,240	10,620	49,690
64	Credit for low-income housing investments	2,960	3,480	4,050	4,620	5,210	5,800	6,390	26,070	250	270	290	300	310	330	340	1,570
65	Accelerated depreciation on rental housing (normal tax method)	600	620	640	730	770	820	880	3,840	9,090	9,530	10,130	12,890	13,840	14,950	16,210	68,020
66	Discharge of mortgage indebtedness									310	330	260	190	140	80	0	670
67	Credit for first-time homebuyer									9,530	1,230	–1,350	–1,400	–1,400	–1,060	–910	–6,120
	Commerce:																
68	Cancellation of indebtedness									60	30	20	40	50	40	30	180
69	Exceptions from imputed interest rules									50	50	50	50	50	50	50	250
70	Capital gains (except agriculture, timber, and coal) [3]									24,240	23,640	28,920	24,840	23,890	27,270	30,480	135,400
71	Capital gains exclusion of small corporation stock									60	60	60	200	340	350	370	1,320
72	Step-up basis of capital gains at death									21,590	19,530	20,830	25,210	31,720	34,100	36,650	148,510
73	Carryover basis of capital gains on gifts									670	730	710	2,370	1,030	1,370	1,470	6,950
74	Ordinary income treatment of loss from small business corporation stock sale									50	50	60	60	60	60	60	300
75	Accelerated depreciation of buildings other than rental housing (normal tax method)	–2,390	–2,380	–2,330	–2,430	–2,430	–2,440	–2,440	–12,070	–4,250	–4,260	–4,230	–4,940	–4,930	–4,920	–4,900	–23,920
76	Accelerated depreciation of machinery and equipment (normal tax method)	39,090	–14,300	–8,170	–3,610	610	3,970	6,930	–270	16,800	3,160	4,350	2,420	5,400	6,970	8,200	27,340
77	Expensing of certain small investments (normal tax method)	200	60	180	–800	–440	–250	–120	–1,430	730	30	730	–2600	–1240	–600	–140	–3,850
78	Graduated corporation income tax rate (normal tax method)	2,460	2,460	2,880	3,090	3,120	3,300	3,310	15,700								
79	Exclusion of interest on small issue bonds	60	110	110	110	120	120	120	580	80	210	220	240	260	270	280	1,270
80	Deduction for U.S. production activities	8,630	8,760	11,380	13,560	14,380	15,260	16,070	70,650	2,030	2,060	2,760	3,330	3,530	3,750	3,940	17,310
81	Special rules for certain film and TV production	60	50	–40	–80	–60	–40	–30	–250	10	10	–10	–20	–20	–10	–10	–70
	Transportation:																
82	Deferral of tax on shipping companies	20	20	20	20	20	20	20	100								
83	Exclusion of reimbursed employee parking expenses									2,920	3,000	3,120	3,270	3,400	3,520	3,630	16,940
84	Exclusion for employer-provided transit passes									480	500	530	570	600	630	660	2,990
85	Tax credit for certain expenditures for maintaining railroad tracks	160	160	60	20	10	10	0	100	20	20	10	0	0	0	0	10
86	Exclusion of interest on bonds for Financing of Highway Projects and rail-truck transfer facilities	20	20	30	30	20	10	10	100	60	70	70	70	70	50	50	310
	Community and regional development:																
87	Investment credit for rehabilitation of structures (other than historic)	20	20	20	20	20	20	20	100	20	20	20	20	20	30	30	120
88	Exclusion of interest for airport, dock, and similar bonds	160	280	280	290	300	310	320	1,500	220	540	570	630	690	710	730	3,330
89	Exemption of certain mutuals' and cooperatives' income	70	70	70	70	70	80	80	370								
90	Empowerment zones and renewal communities	–400	–470	–200	–50	–120	–150	–180	–700	–1,250	–1,490	–950	–370	–560	–680	–760	–3,320
91	New markets tax credit	250	280	260	230	200	140	70	900	740	830	790	690	610	440	230	2,760
92	Expensing of environmental remediation costs	490	240	20	–120	–120	–120	–110	–450	100	50	0	–20	–20	–20	–20	–80
93	Credit to holders of Gulf Tax Credit Bonds	0	0	20	20	20	10	10	80	10	30	60	60	50	40	40	250
	Education, training, employment, and social services:																
	Education:																
94	Exclusion of scholarship and fellowship income (normal tax method)									2,000	2,080	2,160	2,250	2,340	2,440	2,540	11,730
95	HOPE tax credit									3,770	3,800	3,890	4,650	5,100	5,340	5,580	24,560
96	Lifetime Learning tax credit									2,470	2,460	2,510	2,980	3,260	3,410	3,570	15,730
97	Education Individual Retirement Accounts									30	40	60	70	80	80	90	380

Table 19–2. ESTIMATES OF TAX EXPENDITURES FOR THE CORPORATE AND INDIVIDUAL INCOME TAXES FOR FISCAL YEARS 2008-2014—Continued

(In millions of dollars)

		Corporations								Individuals							
		2008	2009	2010	2011	2012	2013	2014	2010–14	2008	2009	2010	2011	2012	2013	2014	2010–14
98	Deductibility of student-loan interest									1,250	1,260	1,270	1,220	970	980	990	5,430
99	Deduction for higher education expenses									1,550	1,680	1,430	0	0	0	0	1,430
100	State prepaid tuition plans									1,030	1,250	1,480	1,700	1,900	2,030	2,140	9,250
101	Exclusion of interest on student-loan bonds	90	160	160	170	170	180	180	860	120	310	330	360	390	410	420	1,910
102	Exclusion of interest on bonds for private nonprofit educational facilities	370	630	650	670	690	710	730	3,450	490	1240	1310	1440	1570	1610	1660	7,590
103	Credit for holders of zone academy bonds	160	170	170	170	160	140	130	770								
104	Exclusion of interest on savings bonds redeemed to finance educational expenses									20	20	20	20	20	20	20	100
105	Parental personal exemption for students age 19 or over									4,690	2,670	1,660	2,680	3,060	2,860	2,640	12,900
106	Deductibility of charitable contributions (education)	600	630	670	710	750	790	830	3,750	3,730	4,250	4,600	4,960	5,360	5,810	6,180	26,910
107	Exclusion of employer-provided educational assistance									650	680	710	40	0	0	0	750
108	Special deduction for teacher expenses									180	180	160	0	0	0	0	160
109	Discharge of student loan indebtedness									20	20	20	20	20	20	20	100
	Training, employment, and social services:																
110	Work opportunity tax credit	440	610	620	570	420	220	100	1,930	50	130	170	130	100	40	10	450
111	Welfare-to-work tax credit	60	40	20	10	10			40	20	10						0
112	Employer provided child care exclusion									940	1240	1480	1490	1550	1620	1700	7,840
113	Employer-provided child care credit	20	20	30	10	0	0	0	40								0
114	Assistance for adopted foster children									430	450	480	510	550	580	620	2,740
115	Adoption credit and exclusion									470	480	500	470	90	100	100	1,260
116	Exclusion of employee meals and lodging (other than military)									970	1,010	1,060	1,110	1,170	1,230	1,300	5,870
117	Child credit [4]									28,420	27,250	27,032	20,250	10,072	9,580	9,120	76,054
118	Credit for child and dependent care expenses									3,020	3,670	2,070	1,920	1,710	1,600	1,520	8,820
119	Credit for disabled access expenditures	10	10	10	10	10	10	10	50	20	20	20	20	20	20	20	100
120	Deductibility of charitable contributions, other than education and health	1,370	1,440	1,510	1,580	1,650	1,720	1790	8,250	36,830	41,930	45,470	48,970	52,950	57,350	61,000	265,740
121	Exclusion of certain foster care payments									480	480	480	480	480	480	480	2,400
122	Exclusion of parsonage allowances									550	580	620	660	700	740	790	3,510
123	Employee retention credit for employers in certain Federal disaster areas	10	70	20	0	0	0	0	20	20	70	20	0	0	0	0	20
124	Exclusion for benefits provided to volunteer EMS and firefighters									20	80	80	60	0	0	0	140
125	Temporary income exclusion for employer provided lodging in Midwestern disaster area									0	20	0	0	0	0	0	0
Health:																	
126	Exclusion of employer contributions for medical insurance premiums and medical care [5]									131,080	142,010	155,050	169,190	184,860	199,900	214,740	923,740
127	Self-employed medical insurance premiums									5,080	5,470	6,020	6,680	7,490	8,250	9,100	37,540
128	Medical Savings Accounts / Health Savings Accounts									1,830	1,930	2,030	2,130	2,240	2,350	2,470	11,220
129	Deductibility of medical expenses									9,320	9,660	10,760	12,540	14,750	16,850	19,260	74,160
130	Exclusion of interest on hospital construction bonds	580	990	1,020	1,050	1,080	1,110	1,150	5,410	770	1,950	2,050	2,260	2,450	2,530	2,600	11,890
131	Deductibility of charitable contributions (health)	180	190	200	210	220	230	240	1,100	4,130	4,700	5,100	5,490	5,940	6,430	6,840	29,800
132	Tax credit for orphan drug research	290	320	360	410	460	510	570	2,310								
133	Special Blue Cross/Blue Shield deduction	620	600	650	660	670	680	690	3,350								
134	Tax credit for health insurance purchased by certain displaced and retired individuals [6]									0	10	10	10	10	10	10	50
135	Distributions from retirement plans for premiums for health and long-term care insurance									240	280	310	340	380	420	460	1,910
Income security:																	
136	Exclusion of railroad retirement system benefits									390	390	370	370	370	360	350	1,820
137	Exclusion of workers' compensation benefits									5,830	5,920	6,010	6,110	6,200	6,300	6,400	31,020
138	Exclusion of public assistance benefits (normal tax method)									560	590	620	650	690	740	780	3,480
139	Exclusion of special benefits for disabled coal miners									40	40	40	40	40	40	40	200
140	Exclusion of military disability pensions									110	130	150	180	220	260	320	1,130
	Net exclusion of pension contributions and earnings:																
141	Employer plans									46,120	45,670	44,370	42,420	42,230	41,620	43,600	214,240
142	401(k) plans									47,000	50,000	53,000	66,000	72,000	75,000	77,000	343,000
143	Individual Retirement Accounts									11,700	12,700	13,500	14,800	16,500	17,000	17,200	79,000
144	Low and moderate income savers credit									890	980	1,050	1,050	1,010	940	920	4,970
145	Keogh plans									12,000	13,000	14,000	15,000	17,000	20,000	21,000	87,000
	Exclusion of other employee benefits:																
146	Premiums on group term life insurance									2,230	2,250	2,320	2,460	2,480	2,490	2,510	12,260
147	Premiums on accident and disability insurance									310	320	330	340	350	360	360	1,740
148	Income of trusts to finance supplementary unemployment benefits									30	30	40	40	50	50	50	230
149	Special ESOP rules	1,200	1,200	1,300	1,400	1,400	1,400	1,500	7,000	400	500	500	500	500	600	600	3,600
150	Additional deduction for the blind									40	30	30	40	50	50	50	220
151	Additional deduction for the elderly									2,250	1,940	1,940	2,730	3,290	3,470	3,570	15,000
152	Tax credit for the elderly and disabled									10	10	10	10	10	10	10	50

Table 19–2. ESTIMATES OF TAX EXPENDITURES FOR THE CORPORATE AND INDIVIDUAL INCOME TAXES FOR FISCAL YEARS 2008-2014—Continued

(In millions of dollars)

		Corporations								Individuals							
		2008	2009	2010	2011	2012	2013	2014	2010–14	2008	2009	2010	2011	2012	2013	2014	2010–14
153	Deductibility of casualty losses									540	580	620	690	740	780	810	3,640
154	Earned income tax credit[7]									5,380	5,740	6,130	6,390	8,530	8,790	9,140	38,980
155	Additional exemption for housing disaster related displaced individuals									20	10	0	0	0	0	0	0
Social Security:																	
	Exclusion of social security benefits:																
156	Social Security benefits for retired workers									19,700	20,610	19,330	20,420	23,130	25,350	25,750	113,980
157	Social Security benefits for disabled									5,420	5,770	5,840	6,230	6,750	7,090	7,140	33,050
158	Social Security benefits for dependents and survivors									3,570	3,610	3,280	3,350	3,670	3,880	3,800	17,980
Veterans benefits and services:																	
159	Exclusion of veterans death benefits and disability compensation									3,870	3,950	4,140	4,480	4,850	5,260	5,690	24,420
160	Exclusion of veterans pensions									180	180	180	190	220	220	220	1,030
161	Exclusion of GI bill benefits									280	280	290	300	330	330	340	1,590
162	Exclusion of interest on veterans housing bonds	0	10	10	10	10	10	10	50	10	10	20	20	20	20	20	100
General purpose fiscal assistance:																	
163	Exclusion of interest on public purpose State and local bonds	4,190	7,100	7,320	7,540	7,760	7,990	8,230	38,840	6,920	17,510	18,410	20,280	22,050	22,710	23,390	106,840
164	Deductibility of nonbusiness State and local taxes other than on owner-occupied homes									49,140	36,270	30,290	48,750	60,350	63,330	65,390	268,110
Interest:																	
165	Deferral of interest on U.S. savings bonds									1,310	1,320	1,330	1,380	1,470	1,490	1,500	7,170
Addendum: Aid to State and local governments:																	
	Deductibility of:																
	Property taxes on owner-occupied homes									29,130	20,850	14,980	24,550	30,630	31,870	32,540	134,570
	Nonbusiness State and local taxes other than on owner-occupied homes									49,140	36,270	30,290	48,750	60,350	63,330	65,390	268,110
	Exclusion of interest on State and local bonds for:																
	Public purposes	4,190	7,100	7,320	7,540	7,760	7,990	8,230	38,840	6,920	17,510	18,410	20,280	22,050	22,710	23,390	106,840
	Energy facilities	0	10	10	10	10	10	10	50	10	10	10	20	20	20	20	90
	Water, sewage, and hazardous waste disposal facilities	70	120	130	130	140	140	140	680	100	250	260	280	310	320	330	1,500
	Small-issues	60	110	110	110	120	120	120	580	80	210	220	240	260	270	280	1,270
	Owner-occupied mortgage subsidies	200	330	340	350	360	370	390	1,810	260	660	690	760	820	850	880	4,000
	Rental housing	180	300	310	320	320	330	340	1,620	230	590	620	680	740	760	780	3,580
	Airports, docks, and similar facilities	160	280	280	290	300	310	320	1,500	220	540	570	630	690	710	730	3,330
	Student loans	90	160	160	170	170	180	180	860	120	310	330	360	390	410	420	1,910
	Private nonprofit educational facilities	370	630	650	670	690	710	730	3,450	490	1,240	1,310	1,440	1,570	1,610	1,660	7,590
	Hospital construction	580	990	1020	1050	1080	1110	1150	5,410	770	1,950	2,050	2,260	2,450	2,530	2,600	11,890
	Veterans' housing	0	10	10	10	10	10	10	50	10	10	20	20	20	20	20	100
	GO Zone and GO Zone mortgage	0	0	0	0	0	0	10	10	0	10	10	10	10	10	10	50
	Credit for holders of zone academy bonds	160	170	170	170	160	140	130	770								

Note: Provisions with estimates denoted normal tax method have no revenue loss under the reference tax law method.

All estimates have been rounded to the nearest $10 million. Provisions with estimates that rounded to zero in each year are not included in the table.

[1]In addition, the alcohol fuel credit results in a reduction in excise tax receipts (in millions of dollars) as follows: 2008 $4,410; 2009 $4,730; 2010 $5,230; 2011 $1,630; 2012 $0; 2013 $0; 2014 $0.

[2]In addition, the bio-diesel producer tax credit results in a reduction in excise tax receipts (in millions of dollars) as follows: 2008 $940; 2009 $780; 2010 $70; 2011 $60; 2012 $40; 2013 $40; 2014 $10.

[3]An alternative calculation for this tax expenditure based on pre-2005 methodology is shown in Table 19-4.

[4]The figures in the table indicate the effect of the child tax credit on receipts. The effect of the credit on outlays (in millions of dollars) is as follows: 2008 $34,020 2009 $26,940; 2010 $17,230; 2011 $16,740; 2012 $1,510; 2013 $1,490; and 2014 $1,480.

[5]The figures in the table indicate the effect on income taxes of the employer contributions for health. In addition, the effect on payroll tax receipts (in millions of dollars) is as follows: 2008 $83,150; 2009 $86,490; 2010 $91,460; 2011 $97,820; 2012 $104,660; 2013 $111,000; and 2014 $117,560.

[6]The figures in the table indicate the effect of the health insurance tax credit on receipts. The effect of the credit on outlays (in millions of dollars) is as follows: 2008 $100; 2009 $100; 2010 $110; 2011 $110; 2012 $120; 2013 $140; and 2014 $150.

[7]The figures in the table indicate the effect of the earned income tax credit on receipts. The effect of the credit on outlays (in millions of dollars) is as follows: 2008 $45,280; 2009 $42,270; 2010 $49,730; 2011 $50,950; 2012 $45,840; 2013 $46,670; and 2014 $47,970.

tax. For example, under the normal and reference tax baselines:

- Income is taxable only when it is realized in exchange. Thus, the deferral of tax on unrealized capital gains is not regarded as a tax expenditure. Accrued income would be taxed under a comprehensive income tax.
- There is a separate corporate income tax. Under a comprehensive income tax, corporate income would be taxed only once – at the shareholder level, whether or not distributed in the form of dividends.
- Noncorporate tax rates vary by level of income.
- Individual tax rates, including brackets, standard deduction, and personal exemptions, are allowed to vary with marital status.
- Values of assets and debt are not generally adjusted for inflation. A comprehensive income tax would adjust the cost basis of capital assets and debt for changes in the general price level. Thus, under a comprehensive income tax baseline, the failure to take account of inflation in measuring depreciation, capital gains, and interest income would be regarded as a negative tax expenditure (i.e., a tax penalty), and failure to take account of inflation in measuring interest costs would be regarded as a positive tax expenditure (i.e., a tax subsidy).

Although the reference law and normal tax baselines are generally similar, areas of difference include:

Tax rates. The separate schedules applying to the various taxpaying units are included in the reference law baseline. Thus, corporate tax rates below the maximum statutory rate do not give rise to a tax expenditure. The normal tax baseline is similar, except that, by convention, it specifies the current maximum rate as the baseline for the corporate income tax. The lower tax rates applied to the first $10 million of corporate income are thus regarded as a tax expenditure under the normal tax. By convention, the Alternative Minimum Tax is treated as part of the baseline rate structure under both the reference and normal tax methods.

Income subject to the tax. Income subject to tax is defined as gross income less the costs of earning that income. Under the reference tax rules, gross income does not include gifts defined as receipts of money or property that are not consideration in an exchange nor does gross income include most transfer payments from the Government.[2] The normal tax baseline also excludes gifts between individuals from gross income. Under the normal tax baseline, however, all cash transfer payments from the Government to private individuals are counted in gross income, and exemptions of such transfers from tax are identified as tax expenditures. The costs of earning income are generally deductible in determining taxable income under both the reference and normal tax baselines.[3]

[2] Gross income does, however, include transfer payments associated with past employment, such as Social Security benefits.

Capital recovery. Under the reference tax law baseline no tax expenditures arise from accelerated depreciation. Under the normal tax baseline, the depreciation allowance for property is computed using estimates of economic depreciation. The latter represents a change in the calculation of the tax expenditure under normal law first made in the 2004 Budget.

Treatment of foreign income. Both the normal and reference tax baselines allow a tax credit for foreign income taxes paid (up to the amount of U.S. income taxes that would otherwise be due), which prevents double taxation of income earned abroad. Under the normal tax method, however, controlled foreign corporations (CFCs) are not regarded as entities separate from their controlling U.S. shareholders. Thus, the deferral of tax on income received by CFCs is regarded as a tax expenditure under this method. In contrast, except for tax haven activities, the reference law baseline follows current law in treating CFCs as separate taxable entities whose income is not subject to U.S. tax until distributed to U.S. taxpayers. Under this baseline, deferral of tax on CFC income is not a tax expenditure because U.S. taxpayers generally are not taxed on accrued, but unrealized, income.

Descriptions of Income Tax Provisions

Descriptions of the individual and corporate income tax expenditures reported on in this chapter follow. These descriptions relate to current law as of December 31, 2008, and do not reflect proposals made elsewhere in the Budget. Legislation enacted in 2008, such as the Energy Improvement and Extension Act of 2008, the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, the Emergency Economic Stabilization Act of 2008, the Emergency Economic Stabilization Act of 2008, the Economic Stimulus Act of 2008, the Heroes Earnings Assistance and Relief Tax Act of 2008, the Food, Conservation, and Energy Act of 2008, and the Housing and Economic Recovery Act of 2008 introduced many changes which for the most part expanded the scope of a number of existing provisions in the Tax Code.

National Defense

1. ***Benefits and allowances to Armed Forces personnel.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income because they represent accretions to wealth that do not materially differ from cash wages. As an example, a rental voucher of $100 is (approximately) equal in value to $100 of cash income. In contrast to this treatment, certain housing

[3] In the case of individuals who hold “passive” equity interests in businesses, the pro-rata shares of sales and expense deductions reportable in a year are limited. A passive business activity is defined generally to be one in which the holder of the interest, usually a partnership interest, does not actively perform managerial or other participatory functions. The taxpayer may generally report no larger deductions for a year than will reduce taxable income from such activities to zero. Deductions in excess of the limitation may be taken in subsequent years, or when the interest is liquidated. In addition, costs of earning income may be limited under the Alternative Minimum Tax.

Table 19–3. INCOME TAX EXPENDITURES RANKED BY TOTAL FISCAL YEAR 2010–2014 PROJECTED REVENUE EFFECT
(In millions of dollars)

	Provision	2010	2010–14
126	Exclusion of employer contributions for medical insurance premiums and medical care	155,050	923,740
58	Deductibility of mortgage interest on owner-occupied homes	107,980	646,080
142	401(k) plans	53,000	343,000
120	Deductibility of charitable contributions, other than education and health	46,980	273,990
164	Deductibility of nonbusiness State and local taxes other than on owner-occupied homes	30,290	268,110
61	Capital gains exclusion on home sales	30,460	234,700
141	Employer plans	44,370	214,240
5	Deferral of income from controlled foreign corporations (normal tax method)	32,720	169,140
72	Step-up basis of capital gains at death	20,830	148,510
51	Exclusion of interest on life insurance savings	24,450	148,490
163	Exclusion of interest on public purpose State and local bonds	25,730	145,680
70	Capital gains (except agriculture, timber, and coal)	28,920	135,400
59	Deductibility of State and local property tax on owner-occupied homes	14,980	134,570
156	Social Security benefits for retired workers	19,330	113,980
80	Deduction for U.S. production activities	14,140	87,960
145	Keogh plans	14,000	87,000
143	Individual Retirement Accounts	13,500	79,000
117	Child credit	27,032	76,054
129	Deductibility of medical expenses	10,760	74,160
65	Accelerated depreciation on rental housing (normal tax method)	10,770	71,860
1	Exclusion of benefits and allowances to Armed Forces personnel	10,210	54,590
63	Exception from passive loss rules for $25,000 of rental loss	9,160	49,690
154	Earned income tax credit	6,130	38,980
127	Self-employed medical insurance premiums	6,020	37,540
157	Social Security benefits for disabled	5,840	33,050
137	Exclusion of workers' compensation benefits	6,010	31,020
131	Deductibility of charitable contributions (health)	5,300	30,900
2	Exclusion of income earned abroad by U.S. citizens	5,590	30,880
106	Deductibility of charitable contributions (education)	5,270	30,660
6	Deferred taxes for financial firms on certain income earned overseas	5,770	29,850
64	Credit for low-income housing investments	4,340	27,640
7	Expensing of research and experimentation expenditures (normal tax method)	3,500	27,400
76	Accelerated depreciation of machinery and equipment (normal tax method)	–3,820	27,070
95	HOPE tax credit	3,890	24,560
159	Exclusion of veterans death benefits and disability compensation	4,140	24,420
158	Social Security benefits for dependents and survivors	3,280	17,980
130	Exclusion of interest on hospital construction bonds	3,070	17,300
8	Credit for increasing research activities	5,880	17,230
83	Exclusion of reimbursed employee parking expenses	3,120	16,940
96	Lifetime Learning tax credit	2,510	15,730
78	Graduated corporation income tax rate (normal tax method)	2,880	15,700
4	Inventory property sales source rules exception	2,640	15,600
151	Additional deduction for the elderly	1,940	15,000
62	Exclusion of net imputed rental income	–2,200	13,820
105	Parental personal exemption for students age 19 or over	1,660	12,900
146	Premiums on group term life insurance	2,320	12,260
94	Exclusion of scholarship and fellowship income (normal tax method)	2,160	11,730
128	Medical Savings Accounts / Health Savings Accounts	2,030	11,220
102	Exclusion of interest on bonds for private nonprofit educational facilities	1,960	11,040
149	Special ESOP rules	1,800	10,600
100	State prepaid tuition plans	1,480	9,250
118	Credit for child and dependent care expenses	2,070	8,820
60	Deferral of income from installment sales	1,370	8,280
9	Expensing of exploration and development costs, fuels	2,390	8,020
112	Employer provided child care exclusion	1,480	7,840
165	Deferral of interest on U.S. savings bonds	1,330	7,170
73	Carryover basis of capital gains on gifts	710	6,950
10	Excess of percentage over cost depletion, fuels	1,350	6,890
50	Exemption of credit union income	1,230	6,650
47	Capital gains treatment of certain income	1,390	6,480
116	Exclusion of employee meals and lodging (other than military)	1,060	5,870
56	Exclusion of interest on owner-occupied mortgage subsidy bonds	1,030	5,810
15	New technology credit	1,180	5,770
98	Deductibility of student-loan interest	1,270	5,430

Table 19–3. INCOME TAX EXPENDITURES RANKED BY TOTAL FISCAL YEAR 2010–2014 PROJECTED REVENUE EFFECT—Continued
(In millions of dollars)

	Provision	2010	2010–14
3	Exclusion of certain allowances for Federal employees abroad	970	5,360
57	Exclusion of interest on rental housing bonds	930	5,200
144	Low and moderate income savers credit	1,050	4,970
88	Exclusion of interest for airport, dock, and similar bonds	850	4,830
35	Excess of percentage over cost depletion, nonfuel minerals	770	4,080
24	Temporary 50% expensing for equipment used in the refining of liquid fuels	890	3,920
91	New markets tax credit	1,050	3,660
153	Deductibility of casualty losses	620	3,640
122	Exclusion of parsonage allowances	620	3,510
138	Exclusion of public assistance benefits (normal tax method)	620	3,480
133	Special Blue Cross/Blue Shield deduction	650	3,350
84	Exclusion for employer-provided transit passes	530	2,990
39	Tax incentives for preservation of historic structures	520	2,900
101	Exclusion of interest on student-loan bonds	490	2,770
114	Assistance for adopted foster children	480	2,740
121	Exclusion of certain foster care payments	480	2,400
110	Work opportunity tax credit	790	2,380
132	Tax credit for orphan drug research	360	2,310
36	Exclusion of interest on bonds for water, sewage, and hazardous waste facilities	390	2,180
55	Exclusion of interest spread of financial institutions	240	1,930
135	Distributions from retirement plans for premiums for health and long-term care insurance	310	1,910
79	Exclusion of interest on small issue bonds	330	1,850
136	Exclusion of railroad retirement system benefits	370	1,820
147	Premiums on accident and disability insurance	330	1,740
38	Expensing of multiperiod timber growing costs	310	1,620
161	Exclusion of GI bill benefits	290	1,590
99	Deduction for higher education expenses	1,430	1,430
71	Capital gains exclusion of small corporation stock	60	1,320
115	Adoption credit and exclusion	500	1,260
23	Credit for investment in clean coal facilities	290	1,230
34	Expensing of exploration and development costs, nonfuel minerals	230	1,200
140	Exclusion of military disability pensions	150	1,130
53	Tax exemption of certain insurance companies owned by tax-exempt organizations	200	1,040
160	Exclusion of veterans pensions	180	1,030
17	Alcohol fuel credits	90	900
103	Credit for holders of zone academy bonds	170	770
107	Exclusion of employer-provided educational assistance	710	750
42	Industrial CO_2 capture and sequestration tax credit	0	700
27	Allowance of deduction for certain energy efficient commercial building property	210	680
66	Discharge of mortgage indebtedness	260	670
13	Capital gains treatment of royalties on coal	140	630
37	Capital gains treatment of certain timber income	140	630
44	Expensing of certain capital outlays	110	590
20	Exclusion of utility conservation subsidies	110	550
25	Natural gas distribution pipelines treated as 15-year property	110	530
26	Amortize all geological and geophysical expenditures over 2 years	130	440
45	Expensing of certain multiperiod production costs	80	430
86	Exclusion of interest on bonds for Financing of Highway Projects and rail-truck transfer facilities	100	410
48	Income averaging for farmers	80	400
97	Education Individual Retirement Accounts	60	380
89	Exemption of certain mutuals' and cooperatives' income	70	370
21	Credit for holding clean renewable energy bonds	70	350
93	Credit to holders of Gulf Tax Credit Bonds	80	330
74	Ordinary income treatment of loss from small business corporation stock sale	60	300
19	Tax credit and deduction for clean-fuel burning vehicles	80	290
16	Energy investment credit	50	250
54	Small life insurance company deduction	50	250
69	Exceptions from imputed interest rules	50	250
52	Special alternative tax on small property and casualty insurance companies	40	240
148	Income of trusts to finance supplementary unemployment benefits	40	230
87	Investment credit for rehabilitation of structures (other than historic)	40	220
150	Additional deduction for the blind	30	220
139	Exclusion of special benefits for disabled coal miners	40	200
30	Credit for energy efficient appliances	130	180

Table 19–3. INCOME TAX EXPENDITURES RANKED BY TOTAL FISCAL YEAR 2010–2014 PROJECTED REVENUE EFFECT—Continued
(In millions of dollars)

	Provision	2010	2010–14
68	Cancellation of indebtedness	20	180
41	Exclusion of gain or loss on sale or exchange of certain brownfield sites	40	170
33	Qualified energy conservation bonds	10	160
108	Special deduction for teacher expenses	160	160
29	Credit for energy efficiency improvements to existing homes	150	150
119	Credit for disabled access expenditures	30	150
162	Exclusion of interest on veterans housing bonds	30	150
14	Exclusion of interest on energy facility bonds	20	140
124	Exclusion for benefits provided to volunteer EMS and firefighters	80	140
43	Deduction for endangered species recovery expenditures	20	130
85	Tax credit for certain expenditures for maintaining railroad tracks	70	110
11	Alternative fuel production credit	80	100
49	Deferral of gain on sale of farm refiners	20	100
82	Deferral of tax on shipping companies	20	100
104	Exclusion of interest on savings bonds redeemed to finance educational expenses	20	100
109	Discharge of student loan indebtedness	20	100
46	Treatment of loans forgiven for solvent farmers	10	90
12	Exception from passive loss limitation for working interests in oil and gas properties	10	50
134	Tax credit for health insurance purchased by certain displaced and retired individuals	10	50
152	Tax credit for the elderly and disabled	10	50
111	Welfare-to-work tax credit	20	40
113	Employer-provided child care credit	30	40
123	Employee retention credit for employers affected by Hurricane Katrina, Rita, and Wilma	40	40
18	Bio-Diesel and small agri-biodiesel producer tax credits	20	20
31	30% credit for residential purchases/installations of solar and fuel cells	20	20
40	Expensing of capital costs with respect to complying with EPA sulfur regulations	30	20
28	Credit for construction of new energy efficient homes	10	10
32	Partial expensing for advanced mine safety equipment	0	0
125	Temporary income exclusion for employer provided lodging in Midwestern disaster area	0	0
155	Additional exemption for housing Hurricane Katrina displaced individuals	0	0
81	Special rules for certain film and TV production	–50	–320
92	Expensing of environmental remediation costs	20	–530
22	Deferral of gain from dispositions of transmission property to implement FERC restructuring policy	–120	–1,810
90	Empowerment zones, Enterprise communities, and Renewal communities	–1,150	–4,020
77	Expensing of certain small investments (normal tax method)	910	–5,280
67	Credit for first-time homebuyer	–1,350	–6,120
75	Accelerated depreciation of buildings other than rental housing (normal tax method)	–6,560	–35,990

Table 19–4. ALTERNATIVE ESTIMATES FOR CAPITAL GAINS AND DIVIDENDS, PRE-2005 METHODOLOGY
(In millions of dollars)

	2008	2009	2010	2011	2012	2013	2014	2010-14
Capital Gains *	59,230	57,760	70,640	60,690	58,380	66,600	74,450	330,760
Qualified Dividends	21,400	23,110	45,390	18,750	......	......	......	64,140

* This is an alternative estimate for tax expenditure provision number 70. It does not include tax expenditures for capital gains from agriculture, timber, and coal. These are listed separately in tables 19–1 and 19–2.

Table 19-5. PRESENT VALUE OF SELECTED TAX EXPENDITURES FOR ACTIVITY IN CALENDAR YEAR 2008
(In millions of dollars)

	Provision	2008 Present Value of Revenue Loss
5	Deferral of income from controlled foreign corporations (normal tax method)	19,100
6	Deferred taxes for financial firms on income earned overseas	3,370
7	Expensing of research and experimentation expenditures (normal tax method)	2,750
21	Credit for holding clean renewable energy bonds	360
9	Expensing of exploration and development costs - fuels	510
34	Expensing of exploration and development costs - nonfuels	40
38	Expensing of multiperiod timber growing costs	190
45	Expensing of certain multiperiod production costs - agriculture	150
44	Expensing of certain capital outlays - agriculture	200
51	Deferral of income on life insurance and annuity contracts	19,310
65	Accelerated depreciation on rental housing	7,290
75	Accelerated depreciation of buildings other than rental	-3,720
76	Accelerated depreciation of machinery and equipment	18,600
77	Expensing of certain small investments (normal tax method)	504
82	Deferral of tax on shipping companies	20
103	Credit for holders of zone academy bonds	160
64	Credit for low-income housing investments	5,020
100	Deferral for State prepaid tuition plans	7,400
141	Exclusion of pension contributions - employer plans	71,270
142	Exclusion of 401(k) contributions	132,000
143	Exclusion of IRA contributions and earnings	4,900
143	Exclusion of Roth earnings and distributions	500
143	Exclusion of non-deductible IRA earnings	9,200
145	Exclusion of contributions and earnings for Keogh plans	8,290
163	Exclusion of interest on public-purpose bonds	24,920
	Exclusion of interest on non-public purpose bonds	8,930
165	Deferral of interest on U.S. savings bonds	330

and meals, in addition to other benefits provided military personnel, either in cash or in kind, as well as certain amounts of pay related to combat service, are excluded from income subject to tax.

International Affairs

2. ***Income earned abroad.***—Under the baseline tax system, all compensation received by U.S. citizens is properly included in their taxable income. It makes no difference whether the compensation is a result of working abroad or whether it is labeled as a housing allowance. In contrast to this treatment, U.S. tax law allows U.S. citizens who live abroad, work in the private sector, and satisfy a foreign residency requirement to exclude up to $80,000 in foreign earned income from U.S. taxes. In addition, if these taxpayers receive a specific allowance for foreign housing from their employers, then they may also exclude the value of that allowance. If they do not receive a specific allowance for housing expenses, they may deduct against their U.S. taxes that portion of such expenses that exceeds one-sixth the salary of a civil servant at grade GS–14, step 1 ($81,093 in 2008).

3. ***Exclusion of certain allowances for Federal employees abroad.***—In general, all compensation received by U.S. citizens is properly included in their taxable income. It makes no difference whether the compensation is a result of working abroad or whether it is labeled as an allowance for the high cost of living abroad. In contrast to this treatment, U.S. Federal civilian employees and Peace Corps members who work outside the continental United States are allowed to exclude from U.S. taxable income certain special allowances they receive to compensate them for the relatively high costs associated with living overseas. The allowances supplement wage income and cover expenses such as rent, education, and the cost of travel to and from the United States.

4. ***Sales source rule exceptions.***—The United States generally taxes the worldwide income of U.S. persons, with taxpayers receiving a credit for foreign taxes paid, limited to the pre-credit U.S. tax on the foreign source income. In contrast, the sales source rules for inventory property allow U.S. exporters to use more foreign tax credits by allowing the exporters to attribute a larger portion of their earnings abroad than would be the case if the allocation of earnings was based on actual economic activity.

5. ***Income of U.S.-controlled foreign corporations.*** — The United States generally taxes the worldwide income of U.S. persons and business entities. In contrast, certain active income of foreign corporations controlled by U.S. shareholders is not subject to U.S. taxation when it is earned. The income becomes taxable only when the controlling U.S. shareholders receive dividends or other distributions from their foreign stockholding. The reference law tax baseline reflects this tax treatment where only realized income is taxed. Under the normal tax method, however, the currently attributable foreign source pre-tax income from such a controlling interest is considered to be subject to U.S. taxation, whether or not distributed. Thus, the normal tax method considers the amount of controlled foreign corporation income not yet distributed to a U.S. shareholder as tax-deferred income.

6. ***Exceptions under subpart F for active financing income.***—The United States generally taxes the worldwide income of U.S. persons and business entities. It would not allow the deferral of tax or other relief targeted at particular industries or activities. In contrast, under current law, financial firms may defer taxes on income earned overseas in an active business.

General Science, Space, and Technology

7. ***Expensing R&E expenditures.***—Research and experimentation (R&E) projects can be viewed as investments because, if successful, their benefits accrue for several years. It is often difficult, however, to identify whether a specific R&E project is successful and, if successful, what its expected life will be. Because of this ambiguity, the reference law baseline tax system would allow of expensing of R&E expenditures. In contrast, under the normal tax method, the expensing of R&E expenditures is viewed as a tax expenditure. The baseline assumed for the normal tax method is that all R&E expenditures are successful and have an expected life of five years.

8. ***R&E credit.***—The baseline tax system would uniformly tax all returns to investments and not allow credits for particular activities, investments, or industries. In contrast, the Tax Code allows an R&E credit of 20 percent of qualified research expenditures in excess of a base amount.

The base amount is generally determined by multiplying a "fixed-base percentage" by the average amount of the company's gross receipts for the prior four years. The taxpayer's fixed base percentage generally is the ratio of its research expenses to gross receipts for 1984 through 1988. Taxpayers can elect the alternative simplified credit regime, which is equal to 14 percent (12 percent prior to 2009) of qualified research expenses that exceed 50 percent of the average qualified research expenses for the three preceding taxable years. Prior to January 1, 2009, taxpayers could also elect an alternative incremental credit regime. Under the alternative incremental credit regime the taxpayer was assigned a three-tiered fixed base percentage that is lower than the fixed-base percentage that would otherwise apply, and the credit rate was reduced. The rates for the alternative incremental credit ranged from 3 percent to 5 percent. The research credit expires on December 31, 2009.

Energy

9. ***Exploration and development costs.***—Under the baseline tax system, the costs of exploring and developing oil and gas wells would be capitalized and then amortized (or depreciated) over an estimate of the economic life of the well. This insures that the net income from the well is measured appropriately each year.

In contrast to this treatment, current law allows intangible drilling costs for successful investments in domestic

oil and gas wells (such as wages, the cost of using machinery for grading and drilling, and the cost of unsalvageable materials used in constructing wells) to be deducted immediately, i.e., expensed. Because it allows recovery of costs sooner, expensing is more generous for the taxpayer than would be amortization. Integrated oil companies may deduct only 70 percent of such costs and must amortize the remaining 30 percent over five years. The same rule applies to the exploration and development costs of surface stripping and the construction of shafts and tunnels for other fuel minerals.

10. ***Percentage depletion.***—The baseline tax system would allow recovery of the costs of developing certain oil and mineral properties using cost depletion. Cost depletion is similar in concept to depreciation, in that the costs of developing or acquiring the asset are capitalized and then gradually reduced over an estimate of the asset's productive life, as is appropriate for measuring net income.

In contrast, the Tax Code generally allows independent fuel and mineral producers and royalty owners to take percentage depletion deductions rather than cost depletion on limited quantities of output. Under percentage depletion, taxpayers deduct a percentage of gross income from mineral production. In certain cases the deduction is limited to a fraction of the asset's net income. Over the life of an investment, percentage depletion deductions can exceed the cost of the investment. Consequently, percentage depletion offers more generous tax treatment than would cost depletion, which would limit deductions to an investment's cost.

11. ***Alternative fuel production credit.***—The baseline tax system would not allow credits for particular activities, investments, or industries. Instead, it generally would seek to tax uniformly all returns from investment-like activities. In contrast, the Tax Code provides a credit of $3 per oil-equivalent barrel of production (in 2004 dollars) for coke or coke gas during a four-year period for qualified facilities placed in service before January 1, 2010.

12. ***Oil and gas exception to passive loss limitation.***—The baseline tax system accepts current law's general rule limiting taxpayers' ability to deduct losses from passive activities against nonpassive income (e.g., wages, interest, and dividends). Passive activities generally are defined as those in which the taxpayer does not materially participate and there are numerous additional considerations brought to bear on the determination of which activities are passive for a given taxpayer. Losses are limited in an attempt to limit tax sheltering activities. Passive losses that are unused may be carried forward and applied against future passive income.

In contrast to the general restrictions on passive losses, the Tax Code exempts owners of working interests in oil and gas properties from "passive income" limitations, such that the working interest-holder who manages the development of wells and incurs all operating costs on behalf of himself and all other owners may aggregate negative taxable income (i.e., losses) from such interests with his other income. Thus, these taxpayers are able to fully deduct passive losses against nonpassive income, in contradiction to the general prohibition against such deductions.

13. ***Capital gains treatment of royalties on coal.***—For individuals in 2008, tax rates on regular income vary from 10 percent to 35 percent, depending on the taxpayer's income. The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low tax rates to apply to certain types or sources of income. In contrast, current law allows capital gains to be taxed at a preferentially low rate that is no higher than 15 percent. Certain sales of coal under royalty contracts qualify for taxation as capital gains rather than ordinary income, and so benefit from the preferentially low 15 percent maximum tax rate on capital gains.

14. ***Energy facility bonds.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, the Tax Code allows interest earned on State and local bonds used to finance construction of certain energy facilities to be exempt from tax. These bonds are generally subject to the State private-activity-bond annual volume cap.

15. ***Energy production credit***.—The baseline tax system would not allow credits for particular activities, investments, or industries. Instead, it generally would seek to tax uniformly all returns from investment-like activities. In contrast, the Tax Code provides a credit for certain electricity produced from wind energy, biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, or qualified hydropower and sold to an unrelated party. In addition to the electricity production credit, an income tax credit is allowed for the production of refined coal and Indian coal at qualified facilities.

16. ***Energy investment credit.***—The baseline tax system would not allow credits for particular activities, investments, or industries. Instead, it generally would seek to tax uniformly all returns from investment-like activities. However, the Tax Code provides credits for investments in solar and geothermal energy property, qualified fuel cell power plants, stationary microturbine power plants, geothermal heat pumps, small wind property and combined heat and power property.

17. ***Alcohol fuel credits.***—The baseline tax system would not allow credits for particular activities, investments, or industries. Instead, it generally would seek to tax uniformly all returns from investment-like activities. In contrast, the Tax Code provides an income tax credit for ethanol derived from renewable sources and used as fuel. In lieu of the alcohol mixture credit, the taxpayer may claim a refundable excise tax credit. In addition, small ethanol producers are eligible for a separate income tax credit for ethanol production and a separate income tax credit is available for qualified cellulosic biofuel production.

18. ***Bio-Diesel tax credit.***—The baseline tax system would not allow credits for particular activities, invest-

ments, or industries. Instead, it generally would seek to tax uniformly all returns from investment-like activities. However, the Tax Code allows an income tax credit for bio-diesel used or sold and for bio-diesel derived from virgin sources. In lieu of the bio-diesel credit, the taxpayer may claim a refundable excise tax credit. In addition, small agri-biodiesel producers are eligible for a separate income tax credit for ethanol production and a separate credit is available for qualified renewable diesel fuel mixtures.

19. ***Credit and deduction for clean-fuel vehicles and property and alternative motor vehicle credits.***—The baseline tax system would not allow credits or deductions for particular activities, investments, or industries. Instead, it generally would seek to tax uniformly all returns from investment-like activities. In contrast, the Tax Code allows a number of credits and deductions for certain types of vehicles. These are available for the purchase of hybrid vehicles, fuel cell vehicles, alternative fuel vehicles and advanced lean burn vehicles and the installing of refueling property.

20. ***Exclusion of utility conservation subsidies.***—The baseline tax system generally takes a comprehensive view of taxable income that includes a wide variety of (measurable) accretions to wealth. In certain circumstances, public utilities offer rate subsidies to non-business customers who invest in energy conservation measures. These rate subsidies are equivalent to payments from the utility to its customer, and so represent accretions to wealth, income, that would be taxable to the customer under the baseline tax system. In contrast, the Tax Code exempts these subsidies from the non-business customer's gross income.

21. ***Credit to holders of clean renewable energy bonds.***—The baseline tax system would uniformly tax all returns to investments and not allow credits for particular activities, investments, or industries. In contrast, the Tax Code provides for the issuance of Clean Renewable Energy Bonds which entitles the bond holder to a Federal income tax credit in lieu of interest.

22. ***Deferral of gain from dispositions of transmission property to implement FERC restructuring policy.***—The baseline tax system generally would tax gains from sale when realized. However, the Tax Code allows utilities to defer gains from the sale of their transmission assets to a FERC-approved independent transmission company.

23. ***Credit for investment in clean coal facilities.***—The baseline tax system would uniformly tax all returns to investments and not allow credits for particular activities, investments, or industries. Instead, it generally would seek to tax uniformly all returns from investment-like activities. In contrast, the Tax Code provides investment tax credits for clean coal facilities producing electricity and for industrial gasification combined cycle projects.

24. ***Temporary 50 percent expensing for equipment used in the refining of liquid fuels.***—The baseline tax system allows the taxpayer to deduct the decline in the economic value of an investment over time. However, the Tax Code provides for an accelerated recovery of the cost of certain investments in refineries by allowing partial expensing of the cost, thereby giving such investments a tax advantage.

25. ***Natural gas distribution pipelines treated as 15-year property.***—The baseline tax system allows taxpayers to deduct the decline in the economic value of an investment over time. However, the Tax Code allows depreciation of natural gas distribution pipelines (placed in service between 2005 and 2011) over a 15 year period. These deductions are accelerated relative to deductions based on economic depreciation.

26. ***Amortize all geological and geophysical expenditures over two years.***—The baseline tax system allows taxpayers to deduct the decline in the economic value of an investment over time. However, the Tax Code allows geological and geophysical expenditures incurred in connection with oil and gas exploration in the United States to be amortized over two years for non-integrated oil companies.

27. ***Allowance of deduction for certain energy efficient commercial building property.*** —The baseline tax system would not allow deductions in addition to normal depreciation allowances for particular investments in particular industries. Instead, it generally would seek to tax uniformly all returns from investment-like activities. In contrast, the Tax Code allows a deduction, per square foot, for certain energy efficient commercial buildings.

28. ***Credit for construction of new energy efficient homes.***—The baseline tax system would not allow credits for particular activities, investments, or industries. Instead, it generally would seek to tax uniformly all returns from investment-like activities. However, the Tax Code allows contractors a tax credit of $2,000 for the construction of a qualified new energy-efficient home that has an annual level of heating and cooling energy consumption at least 50 percent below the annual consumption of a comparable dwelling unit. The credit equals $1,000 in the case of a new manufactured home that meets a 30 percent standard.

29. ***Credit for energy efficiency improvements to existing homes.***—The baseline tax system would not allow credits for particular activities, investments, or industries. However, the Tax Code provides an investment tax credit for expenditures made on insulation, exterior windows, and doors that improve the energy efficiency of homes and meet certain standards. The Tax Code also provides a credit for purchases of advanced main air circulating fans, natural gas, propane, or oil furnaces or hot water boilers, and other qualified energy efficient property.

30. ***Credit for energy efficient appliances.***—The baseline tax system would not allow credits for particular activities, investments, or industries. Instead, it generally would seek to tax uniformly all returns from investment-like activities. In contrast, the Tax Code provides tax credits for the manufacture of efficient dishwashers, clothes washers, and refrigerators. The size of the credit depends on the efficiency of the appliance.

31. ***Credit for residential energy efficient property.***—The baseline tax system would uniformly tax all returns to investments and not allow credits for particular activities, investments, or industries. However, the Tax Code

provides a credit for the purchase of a qualified photovoltaic property and solar water heating property, as well as for fuel cell power plants, geothermal heat pumps and small wind property.

32. ***Expensing for advanced mine safety equipment.***—The baseline tax system generally allows depreciation deductions based on estimates of the decline in the value of an asset as it ages. It would not allow faster write-offs for a particular class of assets or industries. In contrast, the Tax Code allows qualified mine safety equipment placed in service before 2009 to be expensed (deducted immediately) rather than depreciated over time.

33. ***Credit for qualified energy conservation bonds.***—The baseline tax system would uniformly tax all returns to investments and not allow credits for particular activities, investments, or industries. However, the Tax Code provides for the issuance of energy conservation bonds which entitle the bond holder to a Federal income tax credit in lieu of interest.

Natural Resources and Environment

34. ***Exploration and development costs.***—The baseline tax system allows the taxpayer to deduct the depreciation of an asset according to the decline in its economic value over time. However, certain capital outlays associated with exploration and development of nonfuel minerals may be expensed rather than depreciated over the life of the asset.

35. ***Percentage depletion.***—The baseline tax system allows the taxpayer to deduct the decline in the economic value of an investment over time. Under current law, however, most nonfuel mineral extractors may use percentage depletion (whereby the deduction is fixed as a percentage of revenue and can exceed total costs) rather than cost depletion, with percentage depletion rates ranging from 22 percent for sulfur to 5 percent for sand and gravel. Over the life of an investment, percentage depletion deductions can exceed the cost of the investment. Consequently, percentage depletion offers more generous tax treatment than would cost depletion, which would limit deductions to an investment's cost.

36. ***Sewage, water, solid and hazardous waste facility bonds.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, the Tax Code allows interest earned on State and local bonds used to finance construction of sewage, water, or hazardous waste facilities to be exempt from tax. These bonds are generally subject to the State private-activity-bond annual volume cap.

37. ***Capital gains treatment of certain timber.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low tax rates to apply to certain types or sources of income. However, under current law certain timber sales can be treated as a capital gain rather than ordinary income and therefore subject to the lower capital-gains tax rate. For individuals in 2008, tax rates on regular income vary from 10 percent to 35 percent, depending on the taxpayer's income. In contrast, current law allows capital gains to be taxed at a preferentially low rate that is no higher than 15 percent.

38. ***Expensing multi-period timber growing costs.***—The baseline tax system allows the taxpayer to deduct the decline in the economic value of an investment over time. However, most of the production costs of growing timber may be expensed under current law rather than capitalized and deducted when the timber is sold, thereby accelerating cost recovery.

39. ***Historic preservation.***—The baseline tax system would not allow credits for particular activities, investments, or industries. However, expenditures to preserve and restore certified historic structures qualify for an investment tax credit of 20 percent under current law for certified rehabilitation activities.

40. ***Expensing of capital costs with respect to complying with EPA sulfur regulations***.—The baseline tax system allows the taxpayer to deduct the decline in the economic value of an investment over time. However, the Tax Code allows small refiners to deduct 75 percent of qualified capital costs incurred during the taxable year, thereby accelerating cost recovery relative to economic depreciation.

41. ***Exclusion of gain or loss on sale or exchange of certain brownfield sites.***—In general, a tax-exempt organization must pay taxes on income from activities unrelated to its nonprofit status. The Tax Code, however, provides a special exclusion from unrelated business taxable income of the gain or loss from the sale or exchange of certain qualifying brownfield properties.

42. ***Industrial CO_2 capture and sequestration tax credit***.—The baseline tax system would uniformly tax all returns to investments and not allow credits for particular activities, investments, or industries. In contrast, the Tax Code allows a credit of $20 per metric ton for qualified carbon dioxide captured at a qualified facility and disposed of in secure geological storage. In addition, the provision allows a credit of $10 per metric ton of qualified carbon dioxide that is captured at a qualified facility and as a tertiary injectant in a qualified enhanced oil or natural gas recovery project.

43. ***Deduction for endangered species recovery expenditures***.—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low tax rates to apply to certain types or sources of income. In contrast, under current law farmers can deduct up to 25 percent of their gross income for expenses incurred as a result of site and habitat improvement activities that will benefit endangered species on their farm land, in accordance with site specific management actions included in species recovery plans approved pursuant to the Endangered Species Act of 1973.

Agriculture

44. ***Expensing certain capital outlays.***—The baseline tax system allows the taxpayer to deduct the de-

cline in the economic value of an investment over time. However, farmers may expense certain expenditures for feed and fertilizer as well as for soil and water conservation measures as well as other capital improvements under current law.

45. ***Expensing multi-period livestock and crop production costs.***—The baseline tax system allows the taxpayer to deduct the decline in the economic value of an investment over time. However, the production of livestock and crops with a production period greater than two years (e.g., establishing orchards or constructing barns) is exempt from the uniform cost capitalization rules, thereby accelerating cost recovery.

46. ***Loans forgiven solvent farmers.***—The baseline tax system requires debtors to include the amount of loan forgiveness as income or else reduce their recoverable basis in the property related to the loan. If the amount of forgiveness exceeds the basis, the excess forgiveness is taxable. However, for bankrupt debtors, the amount of loan forgiveness reduces carryover losses, unused credits, and then basis, with the remainder of the forgiven debt excluded from taxation.

47. ***Capital gains treatment of certain income.***—For individuals in 2008, tax rates on regular income vary from 10 percent to 35 percent, depending on the taxpayer's income. The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low tax rates to apply to certain types or sources of income. In contrast, current law allows capital gains to be taxed at a preferentially low rate that is no higher than 15 percent. Certain agricultural income, such as unharvested crops, qualify for taxation as capital gains rather than ordinary income, and so benefit from the preferentially low 15 percent maximum tax rate on capital gains.

48. ***Income averaging for farmers.***—The baseline tax system generally taxes all earned income each year at the rate determined by the income tax. However, taxpayers may average their taxable income from farming and fishing over the previous three years.

49. ***Deferral of gain on sales of farm refiners.***—The baseline tax system generally subjects capital gains to taxes the year that they are realized. However, the Tax Code allows a taxpayer who sells stock in a farm refiner to a farmers' cooperative to defer recognition of the gain if the proceeds are re-invested in a qualified replacement property.

Commerce and Housing

This category includes a number of tax expenditure provisions that also affect economic activity in other functional categories. For example, provisions related to investment, such as accelerated depreciation, could be classified under the energy, natural resources and environment, agriculture, or transportation categories.

50. ***Credit union income.***—Under the baseline tax system, corporations pay taxes on their profits under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. However, in the Tax Code the earnings of credit unions not distributed to members as interest or dividends are exempt from the income tax.

51. ***Deferral of income on life insurance and annuity contracts.***—Under the baseline tax system, individuals and corporations pay taxes on their income when it is (actually or constructively) received or accrued, depending on their method of accounting. Nevertheless, the Tax Code provides favorable tax treatment for investment income earned within qualified life insurance and annuity contracts. In general, investment income earned on qualified life insurance contracts held until death is permanently exempt from income tax. Investment income distributed prior to the death of the insured is generally tax-deferred. Investment income earned on annuities benefits from tax deferral.

52. ***Small property and casualty insurance companies.***—Under the baseline tax system, corporations pay taxes on their profits under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. Under current law, however, stock non-life insurance companies are generally exempt from tax if their gross receipts for the taxable year do not exceed $600,000 and more than 50 percent of such gross receipts consists of premiums. Mutual non-life insurance companies are generally tax-exempt if their annual gross receipts do not exceed $150,000 and more than 35 percent of gross receipts consist of premiums. Also, non-life insurance companies with no more than $1.2 million of annual net premiums may elect to pay tax only on their taxable investment income.

53. ***Insurance companies owned by exempt organizations.***—Under the baseline tax system, corporations pay taxes on their profits under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. Generally the income generated by life and property and casualty insurance companies is subject to tax, albeit by special rules. Insurance operations conducted by such exempt organizations as fraternal societies, voluntary employee benefit associations, and others, however, are exempt from tax.

54. ***Small life insurance company deduction.***—Under the baseline tax system, corporations pay taxes on their profits under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. However, under current law small life insurance companies (with gross assets of less than $500 million) can deduct 60 percent of the first $3 million of otherwise taxable income. The deduction phases out for otherwise taxable income between $3 million and $15 million.

55. ***Exclusion of interest spread of financial institutions.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. Consumers and nonprofit organizations pay for some deposit-linked services, such as check cashing, by accepting a below-market interest rate on their demand deposits. If they received a

market rate of interest on those deposits and paid explicit fees for the associated services, they would pay taxes on the full market rate and (unlike businesses) could not deduct the fees. The Government thus foregoes tax on the difference between the risk-free market interest rate and below-market interest rates on demand deposits, which under competitive conditions should equal the value added of deposit services.

56. ***Mortgage housing bonds.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, the Tax Code allows interest earned on State and local bonds used to finance homes purchased by first-time, low-to-moderate-income buyers to be exempt. These bonds are generally subject to the State private-activity-bond annual volume cap.

57. ***Rental housing bonds.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, the Tax Code allows interest earned on State and local government bonds used to finance multifamily rental housing projects to be tax-exempt.

58. ***Interest on owner-occupied homes.***—The baseline tax system would allow the write-off of expenses incurred in earning income. It would not allow the deductibility of expenses when income or the return on investments are not taxed. In contrast, the Tax Code provides that owner-occupants of homes may deduct mortgage interest on their primary and secondary residences as itemized nonbusiness deductions even though the value of owner-occupied housing services is not included in a taxpayer's taxable income. In general, the mortgage interest deduction is limited to interest on debt no greater than the owner's basis in the residence, and is also limited to interest on debt of no more than $1 million. Interest on up to $100,000 of other debt secured by a lien on a principal or second residence is also deductible, irrespective of the purpose of borrowing, provided the debt does not exceed the fair market value of the residence.

59. ***Taxes on owner-occupied homes.***—The Tax Code allows owner-occupants of homes to deduct property taxes on their primary and secondary residences even though they are not required to report the value of owner-occupied housing services as gross income.

60. ***Installment sales.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates, or deferral of tax, to apply to certain types or sources of income. Dealers in real and personal property (i.e., sellers who regularly hold property for sale or resale) cannot defer taxable income from installment sales until the receipt of the loan repayment. Nondealers (i.e., sellers of real property used in their business) are required to pay interest on deferred taxes attributable to their total installment obligations in excess of $5 million. Only properties with sales prices exceeding $150,000 are includable in the total. The payment of a market rate of interest eliminates the benefit of the tax deferral. The tax exemption for nondealers with total installment obligations of less than $5 million is, therefore, a tax expenditure.

61. ***Capital gains exclusion on home sales.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, under current law, a homeowner can exclude from tax up to $500,000 ($250,000 for singles) of the capital gains from the sale of a principal residence. The exclusion may not be used more than once every two years.

62. ***Imputed net rental income on owner-occupied housing.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. Under current law, the implicit rental value of home ownership, net of expenses such as mortgage interest and depreciation, is excluded from income.

63. ***Passive loss real estate exemption.***—The baseline tax system accepts current law's general rule limiting taxpayers' ability to deduct losses from passive activities against nonpassive income (e.g., wages, interest, and dividends). Passive activities generally are defined as those in which the taxpayer does not materially participate and there are numerous additional considerations brought to bear on the determination of which activities are passive for a given taxpayer. Losses are limited in an attempt to limit tax sheltering activities. Passive losses that are unused may be carried forward and applied against future passive income.

In contrast to the general restrictions on passive losses, the Tax Code exempts owners of working interests in rental real estate activities are exempt from "passive income" limitations. The exemption is limited to $25,000 in losses.

64. ***Low-income housing credit.***—The baseline tax system would uniformly tax all returns to investments and not allow credits for particular activities, investments, or industries. However, under current law taxpayers who invest in certain low-income housing are eligible for a tax credit. The credit rate is set so that the present value of the credit is equal to 70 percent for new construction and 30 percent for (1) housing receiving other Federal benefits (such as tax-exempt bond financing), or (2) substantially rehabilitated existing housing. The credit can exceed these levels in certain statutorily defined and State designated areas where project development costs are higher. The credit is allowed in equal amounts over 10 years and is generally subject to a volume cap.

65. ***Accelerated depreciation of rental property.***—Under an economic income tax, the costs of acquiring a building are capitalized and depreciated over time in accordance with the decline in the property's economic value due to wear and tear or obsolescence. This insures that the net income from the rental property is measured appropriately each year. However, the depreciation provisions of the Tax Code are part of the reference law rules, and thus do not give rise to tax expenditures under refer-

ence law. Under normal law, however, depreciation allowances reflect estimates of economic depreciation.

66. ***Discharge of mortgage indebtedness***.—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, the Tax Code allows an exclusion from the income of a taxpayer any discharge of indebtedness of a qualified principal residence. The provision sunsets on December 31, 2009.

67. ***Credit for first-time homebuyer.***—The baseline tax system would not allow credits for particular activities, investments, or industries. Instead, it generally would seek to tax uniformly all returns from investment-like activities. In contrast, the Tax Code allows a tax credit of $7,500 for first time home buyers on purchases on or after April 9, 2008 and before July 1, 2009. The credit will be repaid by the homeowner over time.

68. ***Cancellation of indebtedness.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, under current law individuals are not required to report the cancellation of certain indebtedness as current income. If the canceled debt is not reported as current income, however, the basis of the underlying property must be reduced by the amount canceled.

69. ***Imputed interest rules.***—Holders (issuers) of debt instruments are generally required to report interest earned (paid) in the period it accrues, not when paid. In addition, the amount of interest accrued is determined by the actual price paid, not by the stated principal and interest stipulated in the instrument. In general, any debt associated with the sale of property worth less than $250,000 is excepted from the general interest accounting rules. This general $250,000 exception is not a tax expenditure under reference law but is under normal law. Exceptions above $250,000 are a tax expenditure under reference law; these exceptions include the following: (1) sales of personal residences worth more than $250,000, and (2) sales of farms and small businesses worth between $250,000 and $1 million.

70. ***Capital gains (other than agriculture, timber, and coal)***.— For individuals in 2008, tax rates on regular income vary from 10 percent to 35 percent, depending on the taxpayer's income. The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low tax rates to apply to certain types or sources of income. In contrast, current law allows capital gains on assets held for more than one year to be taxed at a preferentially low rate that is no higher than 15 percent. Table 19-4 shows the full tax expenditure from taxing capital gains (other than capital gains from agriculture, timber, and coal) at a preferential rate. Tables 19-1 to 19-3 show the tax expenditure limited only to capital gains that have not been previously taxed under the corporate income tax.

71. ***Capital gains exclusion for small business stock.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, the Tax Code provides an exclusion of 50 percent (from a 28 percent tax rate) for capital gains from qualified small business stock held by individuals for more than 5 years; 75 percent for stock issued in 2009 and 2010. A qualified small business is a corporation whose gross assets do not exceed $50 million as of the date of issuance of the stock.

72. ***Step-up in basis of capital gains at death.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, capital gains on assets held at the owner's death are not subject to capital gains tax under current law. The cost basis of the appreciated assets is adjusted upward to the market value at the owner's date of death.

73. ***Carryover basis of capital gains on gifts.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates or tax deferral to apply to certain types or sources of income. In contrast, when a gift of appreciated asset is made under current law, the donor's basis in the transferred property (the cost that was incurred when the transferred property was first acquired) carries over to the donee. The carryover of the donor's basis allows a continued deferral of unrealized capital gains.

74. ***Ordinary income treatment of losses from sale of small business corporate stock shares.***—The baseline tax system limits to $3,000 the write-off of losses from capital assets, with carryover of the excess to future years. In contrast, the Tax Code allows up to $100,000 in losses from the sale of small business corporate stock (capitalization less than $1 million) to be treated as ordinary losses and fully deducted.

75. ***Accelerated depreciation of non-rental-housing buildings.***—Under an economic income tax, the costs of acquiring a building are capitalized and depreciated over time in accordance with the decline in the property's economic value due to wear and tear or obsolescence. This insures that the net income from the rental property is measured appropriately each year. However, the depreciation provisions of the Tax Code are part of the reference law rules, and thus do not give rise to tax expenditures under reference law. Under normal law, however, depreciation allowances reflect estimates of economic depreciation.

76. ***Accelerated depreciation of machinery and equipment.***—Under an economic income tax, the costs of acquiring machinery and equipment are capitalized and depreciated over time in accordance with the decline in the property's economic value due to wear and tear or obsolescence. This insures that the net income from the rental property is measured appropriately each year. However, the depreciation provisions of the Tax Code are part of the reference law rules, and thus do not give rise to tax expenditures under reference law. Under normal law, however, depreciation allowances reflect estimates of economic depreciation.

77. ***Expensing of certain small investments.***—Under the reference law baseline, the costs of acquiring tangible property and computer software would be depreciated using the Tax Code's depreciation provisions. Under the normal tax baseline, depreciation allowances are estimates of economic depreciation. However, the Tax Code allows qualifying investments by small businesses in tangible property and certain computer software to be expensed rather than depreciated over time.

78. ***Graduated corporation income tax rate schedule.***—Because the corporate rate schedule is part of reference tax law, it is not considered a tax expenditure under the reference method. A flat corporation income tax rate is taken as the baseline under the normal tax method; therefore the lower rate is considered a tax expenditure under this concept.

79. ***Small issue industrial development bonds.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, the Tax Code allows interest earned on small issue industrial development bonds (IDBs) issued by State and local governments to finance manufacturing facilities to be tax exempt. Depreciable property financed with small issue IDBs must be depreciated, however, using the straight-line method. The annual volume of small issue IDBs is subject to the unified volume cap discussed in the mortgage housing bond section above.

80. ***Deduction for U.S. production activities.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, the Tax Code allows for a deduction equal to a portion of taxable income attributable to domestic production.

81. ***Special rules for certain film and TV production.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, under current law taxpayers may deduct up to $15 million per production ($20 million in certain distressed areas) in non-capital expenditures incurred during the year.

Transportation

82. ***Deferral of tax on U.S. shipping companies.***—The baseline tax system generally would tax all profits and income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, the Tax Code allows certain companies that operate U.S. flag vessels to defer income taxes on that portion of their income used for shipping purposes, primarily construction, modernization and major repairs to ships, and repayment of loans to finance these investments.

83. ***Exclusion of employee parking expenses.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income because they represent accretions to wealth that do not materially differ from cash wages. In contrast, under current law employee parking expenses that are paid for by the employer or that are received in lieu of wages are excludable from the income of the employee. In 2008, the maximum amount of the parking exclusion is $220 (indexed) per month. The tax expenditure estimate does not include parking at facilities owned by the employer.

84. ***Exclusion of employee transit pass expenses.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income because they represent accretions to wealth that do not materially differ from cash wages. In contrast, under current law transit passes, tokens, fare cards, and vanpool expenses paid for by an employer or provided in lieu of wages to defray an employee's commuting costs are excludable from the employee's income. In 2008, the maximum amount of the exclusion is $115 (indexed) per month.

85. ***Tax credit for certain expenditures for maintaining railroad tracks.***—The baseline tax system would not allow credits for particular activities, investments, or industries. However, under current law eligible taxpayers may claim a credit equal to the lesser of 50 percent of maintenance expenditures and the product of $3,500 and the number of miles of track owned or leased.

86. ***Exclusion of interest on bonds for financing of highway projects and rail-truck transfer facilities.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, the Tax Code provides for $15 billion of tax-exempt bond authority to finance qualified highway or surface freight transfer facilities. The authority to issue these bonds expires on December 31, 2015.

Community and Regional Development

87. ***Rehabilitation of structures.***—The baseline tax system would uniformly tax all returns to investments and not allow credits for particular activities, investments, or industries. However, the Tax Code allows a 10-percent investment tax credit for the rehabilitation of buildings that are used for business or productive activities and that were erected before 1936 for other than residential purposes. The taxpayer's recoverable basis must be reduced by the amount of the credit.

88. ***Airport, dock, and similar facility bonds.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, the Tax Code allows interest earned on State and local bonds issued to finance high-speed rail facilities and Government-owned airports, docks, wharves, and sport and convention facilities to be tax-exempt. These bonds are not subject to a volume cap.

89. ***Exemption of income of mutuals and cooperatives.***—Under the baseline tax system, corporations pay taxes on their profits under the regular tax rate schedule. In contrast, the Tax Code provides for the incomes of mutual and cooperative telephone and electric companies to be exempt from tax if at least 85 percent of their revenues are derived from patron service charges.

90. ***Empowerment zones and renewal communities.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income, tax credits, and write-offs faster than economic depreciation. In contrast, under current law qualifying businesses in designated economically depressed areas can receive tax benefits such as an employer wage credit, increased expensing of investment in equipment, special tax-exempt financing, accelerated depreciation, and certain capital gains incentives.

91. ***New markets tax credit.***—The baseline tax system would not allow credits for particular activities, investments, or industries. However, under current law taxpayers who make qualified equity investments in a community development entity (CDE), which then makes qualified investments in low-income communities, are eligible for a tax credit received over 7 years. The total equity investment available for the credit across all CDEs is $3.5 billion in 2008.

92. ***Expensing of environmental remediation costs.***—Under the baseline tax system, the costs would be amortized (or depreciated) over an estimate of the economic life of the building. This insures that the net income from the buildings is measured appropriately each year. However, the Tax Code allows taxpayers who clean up certain hazardous substances at a qualified site to expense the clean-up costs, even though the expenses will generally increase the value of the property significantly or appreciably prolong the life of the property.

93. ***Credit to holders of Gulf and Midwest Tax Credit Bonds.***—The baseline tax system would not allow credits for particular activities, investments, or industries. Instead, under current law taxpayers that own Gulf and Midwest Tax Credit bonds receive a non-refundable tax credit rather than interest. The credit is included in gross income.

Education, Training, Employment, and Social Services

94. ***Scholarship and fellowship income.***—Scholarships and fellowships are excluded from taxable income to the extent they pay for tuition and course-related expenses of the grantee. Similarly, tuition reductions for employees of educational institutions and their families are not included in taxable income. From an economic point of view, scholarships and fellowships are either gifts not conditioned on the performance of services, or they are rebates of educational costs. Thus, under the baseline tax system of the reference law method, this exclusion is not a tax expenditure because this method does not include either gifts or price reductions in a taxpayer's gross income. The exclusion, however, is considered a tax expenditure under the normal tax method, which includes gift-like transfers of Government funds in gross income (many scholarships are derived directly or indirectly from Government funding).

95. ***HOPE tax credit.***—The baseline tax system would not allow credits for particular activities, investments, or industries. Under current law, however, the non-refundable HOPE tax credit allows a credit for 100 percent of an eligible student's first $1,100 of tuition and fees and 50 percent of the next $1,200 of tuition and fees. The credit only covers tuition and fees paid during the first two years of a student's post-secondary education. In 2008, the credit is phased out ratably for taxpayers with modified AGI between $96,000 and $116,000 ($48,000 and $58,000 for singles), indexed.

96. ***Lifetime Learning tax credit.***—The baseline tax system would not allow credits for particular activities, investments, or industries. Under current law, however, the non-refundable Lifetime Learning tax credit allows a credit for 20 percent of an eligible student's tuition and fees, up to a maximum credit per return of $2,000. The credit is phased out ratably for taxpayers with modified AGI between $96,000 and $116,000 ($48,000 and $58,000 for singles) (indexed beginning in 2002). The credit applies to both undergraduate and graduate students.

97. ***Education Individual Retirement Accounts (IRA).***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. Contributions to an education IRA are not tax-deductible. However, investment income earned by education IRAs is not taxed when earned, and investment income from an education IRA is tax-exempt when withdrawn to pay for a student's tuition and fees. The maximum contribution to an education IRA in 2008 is $2,000 per beneficiary. The maximum contribution is phased down ratably for taxpayers with modified AGI between $190,000 and $220,000 ($95,000 and $110,000 for singles).

98. ***Student-loan interest.***—The baseline tax system accepts current law's general rule limiting taxpayers' ability to deduct non-business interest expenses. In contrast, taxpayers may claim an above-the-line deduction of up to $2,500 on interest paid on an education loan. Interest may only be deducted for the first five years in which interest payments are required. In 2008, the maximum deduction is phased down ratably for taxpayers with modified AGI between $110,000 and $140,000 ($55,000 and $70,000 for singles), indexed.

99. ***Deduction for higher education expenses.***—The baseline tax system would not allow a deduction for personal expenditures. In contrast, the Tax Code provides a maximum annual deduction of $4,000 in 2008 for qualified higher education expenses for taxpayers with adjusted gross income up to $130,000 on a joint return ($65,000 for singles). Taxpayers with adjusted gross income up to $160,000 on a joint return ($80,000 for singles) may deduct up to $2,000. No deduction is allowed for expenses paid after December 31, 2008.

100. ***State prepaid tuition plans.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. Some States have adopted prepaid tuition plans and prepaid room and board plans, which allow persons to pay in advance for college expenses for designated beneficiaries. Under current law, investment income is not taxed when earned, and is tax-exempt when withdrawn to pay for qualified expenses.

101. ***Student-loan bonds.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, interest earned on State and local bonds issued to finance student loans is tax-exempt under current law. The volume of all such private activity bonds that each State may issue annually is limited.

102. ***Bonds for private nonprofit educational institutions.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, under current law interest earned on State and local Government bonds issued to finance the construction of facilities used by private nonprofit educational institutions is not taxed.

103. ***Credit for holders of zone academy bonds.***—The baseline tax system would not allow credits for particular activities, investments, or industries. Under current law, however, financial institutions that own zone academy bonds receive a non-refundable tax credit rather than interest. The credit is included in gross income. Proceeds from zone academy bonds may only be used to renovate, but not construct, qualifying schools and for certain other school purposes. The total amount of zone academy bonds that may be issued is limited to $400 million in each year.

104. ***U.S. savings bonds for education.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. Under current law, however, interest earned on U.S. savings bonds issued after December 31, 1989 is tax-exempt if the bonds are transferred to an educational institution to pay for educational expenses. The tax exemption is phased out for taxpayers with AGI between $100,650 and $130,650 ($67,100 and $81,100 for singles) in 2008.

105. ***Dependent students age 19 or older.***—The tax rate schedule, including personal exemptions and the standard deduction, are part of the baseline tax system. Additional exemptions to targeted groups are not allowed. In contrast, the Tax Code provides taxpayers personal exemptions for dependent children who are over the age of 18 or under the age of 24 and who (1) reside with the taxpayer for over half the year (with exceptions for temporary absences from home, such as for school attendance), (2) are full-time students, and (3) do not claim a personal exemption on their own tax returns. However, under current law, the dependent/student is not eligible to claim a personal exemption on his or her own tax return.

106. ***Charitable contributions to educational institutions.***—The baseline tax system would not allow a deduction for personal expenditures. In contrast, the Tax Code provides taxpayers a deduction for contributions to nonprofit educational institutions. Moreover, taxpayers who donate capital assets to educational institutions can deduct the asset's current value without being taxed on any appreciation in value. An individual's total charitable contribution generally may not exceed 50 percent of adjusted gross income; a corporation's total charitable contributions generally may not exceed 10 percent of pre-tax income.

107. ***Employer-provided educational assistance.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income because they represent accretions to wealth that do not materially differ from cash wages. Under current law, however, employer-provided educational assistance is excluded from an employee's gross income even though the employer's costs for this assistance are a deductible business expense.

108. ***Special deduction for teacher expenses.***—The baseline tax system would not allow a deduction for personal expenditures. In contrast, under current law educators in both public and private elementary and secondary schools, who work at least 900 hours during a school year as a teacher, instructor, counselor, principal or aide, may subtract up to $250 of qualified expenses when figuring their adjusted gross income (AGI). This provision expired at end of December 31, 2008.

109. ***Discharge of student loan indebtedness.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. In contrast, the Tax Code allows certain professionals who perform in underserved areas, and as a consequence get their student loans discharged, not to recognize such discharge as income.

110. ***Work opportunity tax credit (WOTC).***—The baseline tax system would not allow credits for particular activities, investments, or industries. Instead, it generally would seek to tax uniformly all returns from investment-like activities. In contrast, the Tax Code provides employers with a tax credit for qualified wages paid to individuals. The credit applies to employees who begin work on or before August 31, 2011 and who are certified as members of various targeted groups. The amount of the credit that can be claimed is 25 percent of qualified wages for employment less than 400 hours and 40 percent for employment of 400 hours or more. Generally, the maximum credit per employee is $2,400 and can only be claimed on the first year of wages an individual earns from an employer. However, the credit for long-term welfare recipients can be claimed on second year wages as well and has a $9,000 maximum. Employees must work at least 120 hours to be eligible for the credit. Employers must reduce their deduction for wages paid by the amount of the credit claimed.

111. ***Welfare-to-work tax credit.***—The baseline tax system would not allow credits for particular activities, investments, or industries. Instead, it generally would

seek to tax uniformly all returns from investment-like activities. In contrast, under current law an employer is eligible for a tax credit on the first $20,000 of eligible wages paid to qualified long-term family assistance recipients during the first two years of employment. The welfare-to-work credit expired on December 31, 2006. After this date, long-term welfare recipients became a WOTC target group.

112. ***Employer-provided child care exclusion.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. In contrast, under current law up to $5,000 of employer-provided child care is excluded from an employee's gross income even though the employer's costs for the child care are a deductible business expense.

113. ***Employer-provided child care credit.***—The baseline tax system would not allow credits for particular activities, investments, or industries. Instead, current law provides a credit equal to 25 percent of qualified expenses for employee child care and 10 percent of qualified expenses for child care resource and referral services. Employer deductions for such expenses are reduced by the amount of the credit. The maximum total credit is limited to $150,000 per taxable year.

114. ***Assistance for adopted foster children.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. Taxpayers who adopt eligible children from the public foster care system can receive monthly payments for the children's significant and varied needs and a reimbursement of up to $2,000 for nonrecurring adoption expenses. These payments are excluded from gross income under current law.

115. ***Adoption credit and exclusion.***—The baseline tax system would not allow credits for particular activities. Instead, taxpayers can receive a nonrefundable tax credit for qualified adoption expenses under current law. The maximum credit is $11,650 per child for 2008, and is phased-out ratably for taxpayers with modified AGI between $174,730 and $214,630. The credit amounts and the phase-out thresholds are indexed for inflation. Taxpayers may also exclude qualified adoption expenses from income, subject to the same maximum amounts and phase-out as the credit. The same expenses cannot qualify for tax benefits under both programs; however, a taxpayer may use the benefits of the exclusion and the tax credit for different expenses.

116. ***Employer-provided meals and lodging.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. In contrast, under current law employer-provided meals and lodging are excluded from an employee's gross income even though the employer's costs for these items are a deductible business expense.

117. ***Child credit.***—The baseline tax system would not allow credits for particular activities or targeted at specific groups. Under current law, however, taxpayers with children under age 17 can qualify for a $1,000 partially refundable per child credit. The maximum credit declines to $500 in 2011 and later years. The credit is phased out for taxpayers at the rate of $50 per $1,000 of modified AGI above $110,000 ($75,000 for singles).

118. ***Child and dependent care expenses.***—The baseline tax system would not allow credits for particular activities or targeted at specific groups. In contrast, the Tax Code provides married couples with child and dependent care expenses a tax credit when one spouse works full time and the other works at least part time or goes to school. The credit may also be claimed by single parents and by divorced or separated parents who have custody of children. In 2008, expenditures up to a maximum $3,000 for one dependent and $6,000 for two or more dependents are eligible for the credit. The credit is equal to 35 percent of qualified expenditures for taxpayers with incomes of $15,000. The credit is reduced to a minimum of 20 percent by one percentage point for each $2,000 of income in excess of $15,000.

119. ***Disabled access expenditure credit.***—The baseline tax system would not allow credits for particular activities, investments, or industries. In contrast, the Tax Code provides small businesses (less than $1 million in gross receipts or fewer than 31 full-time employees) a 50-percent credit for expenditures in excess of $250 to remove access barriers for disabled persons. The credit is limited to $5,000.

120. ***Charitable contributions, other than education and health.***—The baseline tax system would not allow a deduction for personal expenditures. In contrast, the Tax Code provides taxpayers a deduction for contributions to charitable, religious, and certain other nonprofit organizations. Taxpayers who donate capital assets to charitable organizations can deduct the assets' current value without being taxed on any appreciation in value. An individual's total charitable contribution generally may not exceed 50 percent of adjusted gross income; a corporation's total charitable contributions generally may not exceed 10 percent of pre-tax income.

121. ***Foster care payments.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. Foster parents provide a home and care for children who are wards of the State, under contract with the State. However, compensation received for this service is excluded from the gross incomes of foster parents; the expenses they incur are nondeductible.

122. ***Parsonage allowances.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. In contrast, the value of a clergyman's housing allowance and the rental value of parsonages are not included in a minister's taxable income under current law.

123. ***Provide an employee retention credit to employers affected by hurricanes Katrina, Rita, Wilma, and Ike.***—The baseline tax system would not allow credits for particular activities, investments, or industries. In contrast, the Tax Code provides tax credits against the wages paid to eligible employees in areas affected by nat-

ural disasters such as hurricanes Katrina, Rita, Wilma, and Ike.

124. ***Exclusion for benefits provided to volunteer EMS and firefighters.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. In contrast, the Tax Code provides that certain benefits received by volunteer EMS and firefighters excluded from income.

125. ***Temporary income exclusion for employer provided lodging in Midwestern disaster area.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. In contrast, under current law employer-provided meals and lodging in disaster areas are excluded from an employee's gross income even though the employer's costs for these items are a deductible business expense.

Health

126. ***Employer-paid medical insurance and expenses.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. In contrast, under current law, employer-paid health insurance premiums and other medical expenses (including long-term care) are deducted as a business expense by employers, but they are not included in employee gross income. The self-employed also may deduct part of their family health insurance premiums.

127. ***Self-employed medical insurance premiums.***—Under the baseline tax system, all compensation and remuneration, including dedicated payments and in-kind benefits, should be included in taxable income. In contrast, under current law self-employed taxpayers may deduct a percentage of their family health insurance premiums. Taxpayers without self-employment income are not eligible for the special percentage deduction. The deductible percentage is 60 percent in 2001, 70 percent in 2002, and 100 percent in 2003 and thereafter.

128. ***Medical and health savings accounts.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. Also, the baseline tax system would not allow a deduction for personal expenditures. In contrast, individual contributions to Archer Medical Savings Accounts (Archer MSAs) and Health Savings Accounts (HSAs) are allowed as a deduction in determining adjusted gross income whether or not the individual itemizes deductions. Employer contributions to Archer MSAs and HSAs are excluded from income and employment taxes. Archer MSAs and HSAs require that the individual have coverage by a qualifying high deductible health plan. Earnings from the accounts are excluded from taxable income. Distributions from the accounts used for medical expenses are not taxable. The rules for HSAs are generally more flexible than for Archer MSAs and the deductible contribution amounts are greater (in 2008, $2900 for taxpayers with individual coverage and $5,800 for taxpayers with family coverage). Thus, HSAs have largely replaced MSAs.

129. ***Medical care expenses.***—The baseline tax system would not allow a deduction for personal expenditures. In contrast, under current law personal expenditures for medical care (including the costs of prescription drugs) exceeding 7.5 percent of the taxpayer's adjusted gross income are deductible.

130. ***Hospital construction bonds.*** —The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, under current law interest earned on State and local government debt issued to finance hospital construction is excluded from income subject to tax.

131. ***Charitable contributions to health institutions.***—The baseline tax system would not allow a deduction for personal expenditures. In contrast, the Tax Code provides individuals and corporations a deduction for contributions to nonprofit health institutions. Tax expenditures resulting from the deductibility of contributions to other charitable institutions are listed under the education, training, employment, and social services function.

132. ***Orphan drugs.***—The baseline tax system would not allow credits for particular activities, investments, or industries. In contrast, under current law drug firms can claim a tax credit of 50 percent of the costs for clinical testing required by the Food and Drug Administration for drugs that treat rare physical conditions or rare diseases.

133. ***Blue Cross and Blue Shield.***—The baseline tax system generally would tax all profits under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, Blue Cross and Blue Shield health insurance providers in existence on August 16, 1986 and certain other nonprofit health insurers are provided exceptions from otherwise applicable insurance company income tax accounting rules that substantially reduce (or even eliminate) their tax liabilities.

134. ***Tax credit for health insurance purchased by certain displaced and retired individuals.***—The baseline tax system would not allow credits for particular activities, investments, or industries. In contrast, the Trade Act of 2002 provides a refundable tax credit of 65 percent for the purchase of health insurance coverage by individuals eligible for Trade Adjustment Assistance and certain Pension Benefit Guarantee Corporation pension recipients.

135. ***Distributions for premiums for health and long-term care insurance.***—Under the baseline tax system, all compensation, including dedicated and deferred payments, should be included in taxable income. In contrast, the Tax Code provides for tax-free distributions of up to $3,000 from governmental retirement plans for premiums for health and long term care premiums of public safety officers.

Income Security

136. ***Railroad retirement benefits.***—Under the baseline tax system, all compensation, including dedicated and deferred payments, should be included in taxable income. In contrast, railroad retirement benefits are not generally subject to the income tax unless the recipient's gross income reaches a certain threshold under current law. The threshold is discussed more fully under the Social Security function.

137. ***Workers' compensation benefits.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. However, workers compensation provides payments to disabled workers. These benefits, although income to the recipients, are not subject to the income tax under current law.

138. ***Public assistance benefits.***—Under the reference law baseline tax system, gifts and transfers are not treated as income to the recipients. In contrast, the normal tax method considers cash transfers from the Government as part of the recipients' income, and thus, treats the exclusion for public assistance benefits under current law as tax expenditure.

139. ***Special benefits for disabled coal miners.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. However, disability payments to former coal miners out of the Black Lung Trust Fund, although income to the recipient, are not subject to the income tax.

140. ***Military disability pensions.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. In contrast, most of the military pension income received by current disabled retired veterans is excluded from their income subject to tax.

141. ***Employer-provided pension contributions and earnings.***—Under the baseline tax system, all compensation, including deferred and dedicated payments, should be included in taxable income. In contrast, under current law certain employer contributions to pension plans are excluded from an employee's gross income even though the employer can deduct the contributions. In addition, the tax on the investment income earned by the pension plans is deferred until the money is withdrawn.

142. ***401(k) plans.***—Under the baseline tax system, all compensation, including deferred and dedicated payments, should be included in taxable income. In contrast, under current law individual taxpayers can make tax-preferred contributions to certain types of employer-provided 401(k) plans (and 401(k)-type plans like 403(b) plans and the Federal Government's Thrift Savings Plan). In 2008, an employee could exclude up to $15,500 (indexed) of wages from AGI under a qualified arrangement with an employer's 401(k) plan. Employees age 50 or over could exclude an additional $5,000 "catch-up" contribution (indexed). The tax on the investment income earned by 401(k)-type plans is deferred until withdrawn.

143. ***Individual Retirement Accounts (IRAs).***—Under the baseline tax system, all compensation, including deferred and dedicated payments, should be included in taxable income. In contrast, under current law individual taxpayers can take advantage of several different IRAs to defer or otherwise reduce the tax on the return to their retirement savings. These arrangements include deductible IRAs, nondeductible IRAs and Roth IRAs. The IRA contribution limit is $5,000 in 2008 (indexed thereafter) and allows taxpayers over age 50 to make additional "catch-up" contributions of $1,000. Taxpayers can make a deductible IRA contribution only up to certain levels of AGI. Above those AGI limits, the amount that may be deducted is reduced and eventually phased out. There is no income limit for nondeductible IRA contributions, which still benefit from deferral of tax on earnings. Roth IRA contributions are not deductible, but earnings and withdrawals are exempt from taxation under certain conditions. AGI limits also apply to Roth IRA contributions.

144. ***Low and moderate-income savers' credit.***—The baseline tax system would not allow credits for particular activities or targeted at specific group. In contrast, the Tax Code provides an additional incentive for lower-income taxpayers to save through a nonrefundable credit of up to 50 percent on IRA and other retirement contributions of up to $2,000. This credit is in addition to any deduction or exclusion. The credit is completely phased out by $52,000 for joint filers and $26,000 for single filers.

145. ***Keogh plans.***—Under the baseline tax system, all compensation, including deferred and dedicated payments, should be included in taxable income. In contrast, under current law self-employed individuals can make deductible contributions to their own retirement (Keogh) plans equal to 25 percent of their income, up to a maximum of $46,000 in 2008. Total plan contributions are limited to 25 percent of a firm's total wages. The tax on the investment income earned by Keogh plans is deferred until withdrawn.

146. ***Employer-provided life insurance benefits.***—Under the baseline tax system, all compensation, including deferred and dedicated payments, should be included in taxable income. In contrast, under current law employer-provided life insurance benefits are excluded from an employee's gross income even though the employer's costs for the insurance are a deductible business expense, but only to the extent that the employer's share of the total costs does not exceed the cost of $50,000 of such insurance.

147. ***Employer-provided accident and disability benefits.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. In contrast, employer-provided accident and disability benefits are excluded from an employee's gross income even though the employer's costs for the benefits are a deductible business expense.

148. ***Employer-provided supplementary unemployment benefits.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. Employers may establish trusts to pay supplemental unemployment ben-

efits to employees separated from employment. Interest payments to such trusts are exempt from taxation.

149. ***Employer Stock Ownership Plan (ESOP) provisions.***—ESOPs are a special type of tax-exempt employee benefit plan. Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income. In contrast, employer-paid contributions (the value of stock issued to the ESOP) are deductible by the employer as part of employee compensation costs. They are not included in the employees' gross income for tax purposes, however, until they are paid out as benefits. The following special income tax provisions for ESOPs are intended to increase ownership of corporations by their employees: (1) annual employer contributions are subject to less restrictive limitations; (2) ESOPs may borrow to purchase employer stock, guaranteed by their agreement with the employer that the debt will be serviced by his payment (deductible by him) of a portion of wages (excludable by the employees) to service the loan; (3) employees who sell appreciated company stock to the ESOP may defer any taxes due until they withdraw benefits; and (4) dividends paid to ESOP-held stock are deductible by the employer.

150. ***Additional deduction for the blind.***—The tax rate schedule, including personal exemptions and the standard deduction, are part of the baseline tax system. Additional exemptions to targeted groups are not allowed. In contrast, the Tax Code provides taxpayers who are blind an additional $1,350 standard deduction if single, or $1,050 if married in 2008.

151. ***Additional deduction for the elderly.***—The tax rate schedule, including personal exemptions and the standard deduction, are part of the baseline tax system. Additional exemptions to targeted groups are not allowed. In contrast, the Tax Code provides taxpayers who are 65 years or older an additional $1,350 standard deduction if single, or $1,050 if married in 2008.

152. ***Tax credit for the elderly and disabled.***—The baseline tax system would not allow credits for particular activities or targeted at specific group. Under current law, however, individuals who are 65 years of age or older, or who are permanently disabled, can take a tax credit equal to 15 percent of the sum of their earned and retirement income. Income is limited to no more than $5,000 for single individuals or married couples filing a joint return where only one spouse is 65 years of age or older, and up to $7,500 for joint returns where both spouses are 65 years of age or older. These limits are reduced by one-half of the taxpayer's adjusted gross income over $7,500 for single individuals and $10,000 for married couples filing a joint return.

153. ***Casualty losses.***—Under the baseline tax system, neither the purchase of property nor insurance premiums to protect its value are deductible as costs of earning income. Therefore, reimbursement for insured loss of such property is not reportable as a part of gross income and uninsured losses not deductible. In contrast, the Tax Code provides a deduction for uninsured casualty and theft losses of more than $100 each, but only to the extent that total losses during the year exceed 10 percent of AGI.

154. ***Earned income tax credit (EITC)***.— The baseline tax system would not allow credits for particular activities or targeted at specific group. In contrast, the Tax Code provides an EITC to low-income workers at a maximum rate of 40 percent of income. For a family with one qualifying child, the credit is 34 percent of the first $8,580 of earned income in 2008. The credit is 40 percent of the first $12,060 of income for a family with two or more qualifying children. The credit is phased out at income levels and rates which depend upon how many qualifying children are eligible and marital status. Earned income tax credits in excess of tax liabilities owed through the individual income tax system are refundable to individuals.

155. ***Additional exemption for housing natural disaster displaced individuals.***—The tax rate schedule, including personal exemptions and the standard deduction, are part of the baseline tax system. Additional exemptions to targeted groups are not allowed. In contrast, the Tax Code provides additional exemption to persons displaced by natural disasters such as hurricane Katrina.

Social Security

156. ***Social Security benefits for retired workers.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income because they represent accretions to wealth that do not materially differ from cash wages. In contrast, the Tax Code may not tax all of the Social Security benefits that exceed the beneficiary's contributions out of taxed income. These additional retirement benefits are paid for partly by employers' contributions that were not included in employees' taxable compensation and partly by earnings on employee and employer contributions. Portions of benefits (reaching as much as 85 percent) of recipients' Social Security and tier 1 railroad retirement benefits are included in (phased-in) the income tax base, however, if the recipient's provisional income exceeds certain base amounts. Provisional income is equal to adjusted gross income plus foreign or U.S. possession income and tax-exempt interest, and one half of Social Security and tier 1 railroad retirement benefits. The tax expenditure is limited to the portion of the benefits received by taxpayers who are below the income amounts at which 85 percent of the benefits are taxable.

157. ***Social Security benefits for the disabled.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income because they represent accretions to wealth that do not materially differ from cash wages. Under current law, however, benefit payments from the Social Security Trust Fund for disability are fully or partially excluded from a beneficiary's gross incomes. (See provision number 156, Social Security benefits for retired workers.)

158. ***Social Security benefits for dependents and survivors.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income because they

represent accretions to wealth that do not materially differ from cash wages. Under current law, however, benefit payments from the Social Security Trust Fund for dependents and survivors are fully or partially excluded from a beneficiary's gross income.

Veterans Benefits and Services

159. ***Veterans death benefits and disability compensation.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income because they represent accretions to wealth that do not materially differ from cash wages. In contrast, all compensation due to death or disability paid by the Veterans Administration is excluded from taxable income under current law.

160. ***Veterans pension payments.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income because they represent accretions to wealth that do not materially differ from cash wages. Under current law, however, pension payments made by the Veterans Administration are excluded from gross income.

161. ***G.I. Bill benefits.***—Under the baseline tax system, all compensation, including dedicated payments and in-kind benefits, should be included in taxable income because they represent accretions to wealth that do not materially differ from cash wages. Under current law, however, G.I. Bill benefits paid by the Veterans Administration are excluded from gross income.

162. ***Tax-exempt mortgage bonds for veterans.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, under current law, interest earned on general obligation bonds issued by State and local governments to finance housing for veterans is excluded from taxable income.

General Government

163. ***Public purpose State and local bonds.***—The baseline tax system generally would tax all income under the regular tax rate schedule. It would not allow preferentially low (or zero) tax rates to apply to certain types or sources of income. In contrast, under current law interest earned on State and local government bonds issued to finance public-purpose construction (e.g., schools, roads, sewers), equipment acquisition, and other public purposes is tax-exempt. Interest on bonds issued by Indian tribal governments for essential governmental purposes is also tax-exempt.

164. ***Deductibility of certain nonbusiness State and local taxes.***— The baseline tax system would not allow a deduction for personal expenditures. In contrast, the Tax Code provides taxpayers who itemize a deduction for State and local income taxes and property taxes (or at the taxpayer's election state and local sales taxes) even though these taxes primarily pay for services that, if purchased directly by taxpayers, would not be deductible.

Interest

165. ***U.S. savings bonds.***—The baseline tax system would uniformly tax all returns to investments and not allow an exemption or deferral for particular activities, investments, or industries. In contrast, taxpayers may defer paying tax on interest earned on U.S. savings bonds until the bonds are redeemed.

APPENDIX A
PERFORMANCE MEASURES AND THE ECONOMIC EFFECTS OF TAX EXPENDITURES

The Government Performance and Results Act of 1993 (GPRA) directs Federal agencies to develop annual and strategic plans for their programs and activities. These plans set out performance objectives to be achieved over a specific time period. Most of these objectives are achieved through direct expenditure programs. Tax expenditures, however, may also contribute to achieving these goals. This Appendix responds to the report of the Senate Governmental Affairs Committee on GPRA[4] calling on the Executive Branch to undertake a series of analyses to assess the effect of specific tax expenditures on the achievement of agencies' performance objectives.

Comparison of tax expenditure, spending, and regulatory policies. Tax expenditures by definition work through the tax system and, particularly, the income tax. Thus, they may be relatively advantageous policy approaches when the benefit or incentive is related to income and is intended to be widely available.[5] Because there is an existing public administrative and private compliance structure for the tax system, the incremental administrative and compliance costs for a tax expenditure may be low in many cases. In addition, some tax expenditures actually simplify the operation of the tax system, (for example, the exclusion for up to $500,000 of capital gains on home sales). Tax expenditures also implicitly subsidize certain activities. Spending, regulatory or tax-disincentive policies can also modify behavior, but may have different economic effects. Finally, a variety of tax expenditure tools can be used, e.g., deductions; credits; exemptions; deferrals, floors, ceilings; phase-ins; phase-outs; and these can be dependent on income, expenses, or demographic characteristics (age, number of family members, etc.). This wide range of policy instruments means that tax expenditures can be flexible and can have very different economic effects.

[4] Committee on Government Affairs, United States Senate, "Government Performance and Results Act of 1993" (Report 103–58, 1993).

[5] Although this chapter focuses upon tax expenditures under the income tax, tax expenditures also arise under the unified transfer, payroll, and excise tax systems. Such provisions can be useful when they relate to the base of those taxes, such as an excise tax exemption for certain types of consumption deemed meritorious.

Tax expenditures also have limitations. In many cases they add to the complexity of the tax system, which raises both administrative and compliance costs. For example, personal exemptions, deductions, credits, and phase-outs can complicate filing and decision-making. The income tax system may have little or no contact with persons who have no or very low incomes, and does not require information on certain characteristics of individuals used in some spending programs, such as wealth. These features may reduce the effectiveness of tax expenditures for addressing socioeconomic disparity. Tax expenditures also generally do not enable the same degree of agency discretion as an outlay program. For example, grant or direct Federal service delivery programs can prioritize activities to be addressed with specific resources in a way that is difficult to emulate with tax expenditures.

Outlay programs have advantages where direct Government service provision is particularly warranted such as equipping and providing the armed forces or administering the system of justice. Outlay programs may also be specifically designed to meet the needs of low-income families who would not otherwise be subject to income taxes or need to file a tax return. Outlay programs may also receive more year-to-year oversight and fine tuning through the legislative and executive budget process. In addition, many different types of spending programs including direct Government provision; credit programs; and payments to State and local governments, the private sector, or individuals in the form of grants or contracts provide flexibility for policy design. On the other hand, certain outlay programs, such as direct Government service provision may rely less directly on economic incentives and private-market provision than tax incentives, which may reduce the relative efficiency of spending programs for some goals. Finally, spending programs, particularly on the discretionary side, may respond less readily to changing activity levels and economic conditions than tax expenditures.

Regulations have more direct and immediate effects than outlay and tax-expenditure programs because regulations apply directly and immediately to the regulated party (i.e., the intended actor) generally in the private sector. Regulations can also be fine-tuned more quickly than tax expenditures because they can often be changed as needed by the Executive Branch without legislation. Like tax expenditures, regulations often rely largely on voluntary compliance, rather than detailed inspections and policing. As such, the public administrative costs tend to be modest relative to the private resource costs associated with modifying activities. Historically, regulations have tended to rely on proscriptive measures, as opposed to economic incentives. This reliance can diminish their economic efficiency, although this feature can also promote full compliance where (as in certain safety-related cases) policymakers believe that trade-offs with economic considerations are not of paramount importance. Also, regulations generally do not directly affect Federal outlays or receipts. Thus, like tax expenditures, they may escape the degree of scrutiny that outlay programs receive. However, major regulations are subjected to a formal regulatory analysis that goes well beyond the analysis required for outlays and tax-expenditures. To some extent, the GPRA requirement for performance evaluation will address this lack of formal analysis.

Some policy objectives are achieved using multiple approaches. For example, minimum wage legislation, the earned income tax credit, and the food stamp program are regulatory, tax expenditure, and direct outlay programs, respectively, all having the objective of improving the economic welfare of low-wage workers.

Tax expenditures, like spending and regulatory programs, have a variety of objectives and effects. When measured against a comprehensive income tax, for example, these include: encouraging certain types of activities (e.g., saving for retirement or investing in certain sectors); increasing certain types of after-tax income (e.g., favorable tax treatment of Social Security income); reducing private compliance costs and Government administrative costs (e.g., the exclusion for up to $500,000 of capital gains on home sales); and promoting tax neutrality (e.g., accelerated depreciation in the presence of inflation). Some of these objectives are well suited to quantitative measurement, while others are less well suited. Also, many tax expenditures, including those cited above, may have more than one objective. For example, accelerated depreciation may encourage investment. In addition, the economic effects of particular provisions can extend beyond their intended objectives (e.g., a provision intended to promote an activity or raise certain incomes may have positive or negative effects on tax neutrality).

Performance measurement is generally concerned with inputs, outputs, and outcomes. In the case of tax expenditures, the principal input is usually the revenue effect. Outputs are quantitative or qualitative measures of goods and services, or changes in income and investment, directly produced by these inputs. Outcomes, in turn, represent the changes in the economy, society, or environment that are the ultimate goals of programs.

Thus, for a provision that reduces taxes on certain investment activity, an increase in the amount of investment would likely be a key output. The resulting production from that investment, and, in turn, the associated improvements in national income, welfare, or security, could be the outcomes of interest. For other provisions, such as those designed to address a potential inequity or unintended consequence in the Tax Code, an important performance measure might be how they change effective tax rates (the discounted present value of taxes owed on new investments or incremental earnings) or excess burden (an economic measure of the distortions caused by taxes). Effects on the incomes of members of particular groups may be an important measure for certain provisions.

An Overview of Evaluation Issues by Budget Function.

The discussion below considers the types of measures that might be useful for some major programmatic groups of tax expenditures. The discussion is intended to be illustrative and not all encompassing. However, it is premised

on the assumption that the data needed to perform the analysis are available or can be developed. In practice, data availability is likely to be a major challenge, and data constraints may limit the assessment of the effectiveness of many provisions. In addition, such assessments can raise significant challenges in economic modeling.

National defense. Some tax expenditures are intended to assist governmental activities. For example, tax preferences for military benefits reflect, among other things, the view that benefits such as housing, subsistence, and moving expenses are intrinsic aspects of military service, and are provided, in part, for the benefit of the employer, the U.S. Government. Tax benefits for combat service are intended to reduce tax burdens on military personnel undertaking hazardous service for the Nation. A portion of the tax expenditure associated with foreign earnings is targeted to benefit U.S. Government civilian personnel working abroad by offsetting the living costs that can be higher than those in the United States. These tax expenditures should be considered together with direct agency budget costs in making programmatic decisions.

International affairs. Tax expenditures are also aimed at goals such as tax neutrality. These include the exclusion for income earned abroad by nongovernmental employees and exclusions for income of U.S.-controlled foreign corporations. Measuring the effectiveness of these provisions raises challenging issues.

General science, space and technology, energy, natural resources and the environment, agriculture, and commerce and housing. A series of tax expenditures reduces the cost of investment, both in specific activities such as research and experimentation, extractive industries, and certain financial activities and more generally, through accelerated depreciation for plant and equipment. These provisions can be evaluated along a number of dimensions. For example, it could be useful to consider the strength of the incentives by measuring their effects on the cost of capital (the interest rate which investments must yield to cover their costs) and effective tax rates. The impact of these provisions on the amounts of corresponding forms of investment (e.g., research spending, exploration activity, equipment) might also be estimated. In some cases, such as research, there is evidence that the investment can provide significant positive externalities—that is, economic benefits that are not reflected in the market transactions between private parties. It could be useful to quantify these externalities and compare them with the size of tax expenditures. Measures could also indicate the effects on production from these investments such as numbers or values of patents, energy production and reserves, and industrial production. Issues to be considered include the extent to which the preferences increase production (as opposed to benefiting existing output) and their cost-effectiveness relative to other policies. Analysis could also consider objectives that are more difficult to measure but still are ultimate goals, such as promoting the Nation's technological base, energy security, environmental quality, or economic growth. Such an assessment is likely to involve tax analysis as well as consideration of non-tax matters such as market structure, scientific, and other information (such as the effects of increased domestic fuel production on imports from various regions, or the effects of various energy sources on the environment).

Housing investment also benefits from tax expenditures. The imputed net rental income from owner-occupied housing is excluded from the tax base. The mortgage interest deduction and property tax deduction on personal residences also are reported as tax expenditures because the value of owner-occupied housing services is not included in a taxpayer's taxable income. Taxpayers also may exclude up to $500,000 of the capital gains from the sale of personal residences. Measures of the effectiveness of these provisions could include their effects on increasing the extent of home ownership and the quality of housing. Similarly, analysis of the extent of accumulated inflationary gains is likely to be relevant to evaluation of the capital gains for home sales. Deductibility of State and local property taxes assists with making housing more affordable as well as easing the cost of providing community services through these taxes. Provisions intended to promote investment in rental housing could be evaluated for their effects on making such housing more available and affordable. These provisions should then be compared with alternative programs that address housing supply and demand.

Transportation. Employer-provided parking is a fringe benefit that, for the most part, is excluded from taxation. The tax expenditure estimates reflect the cost of parking that is leased by employers for employees; an estimate is not currently available for the value of parking owned by employers and provided to their employees. The exclusion for employer-provided transit passes is intended to promote use of this mode of transportation, which has environmental and congestion benefits. The tax treatments of these different benefits could be compared with alternative transportation policies.

Community and regional development. A series of tax expenditures is intended to promote community and regional development by reducing the costs of financing specialized infrastructure, such as airports, docks, and stadiums. Empowerment zone and enterprise community provisions are designed to promote activity in disadvantaged areas. These provisions can be compared with grants and other policies designed to spur economic development.

Education, training, employment, and social services. Major provisions in this function are intended to promote post-secondary education, to offset costs of raising children, and to promote a variety of charitable activities. The education incentives can be compared with loans, grants, and other programs designed to promote higher education and training. The child credits are intended to adjust the tax system for the costs of raising children; as such, they could be compared to other Federal tax and spending policies, including related features of the tax system, such as personal exemptions (which are not defined as a tax expenditure). Evaluation of charitable activities requires consideration of the beneficiaries of these activities, who are generally not the parties receiving the tax reduction.

Health. Individuals also benefit from favorable treatment of employer-provided health insurance. Measures of these benefits could include increased coverage and pooling of risks. The effects of insurance coverage on final outcome measures of actual health (e.g., infant mortality, days of work lost due to illness, or life expectancy) or intermediate outcomes (e.g., use of preventive health care or health care costs) could also be investigated.

Income security, Social Security, and veterans benefits and services. Major tax expenditures in the income security function benefit retirement savings, through employer-provided pensions, individual retirement accounts, and Keogh plans. These provisions might be evaluated in terms of their effects on boosting retirement incomes, private savings, and national savings (which would include the effect on private savings as well as public savings or deficits). Interactions with other programs, including Social Security, also may merit analysis. As in the case of employer-provided health insurance, analysis of employer-provided pension programs requires imputing the value of benefits funded at the firm level to individuals.

Other provisions principally affect the incomes of members of certain groups, rather than affecting incentives. For example, tax-favored treatment of Social Security benefits, certain veterans' benefits, and deductions for the blind and elderly provide increased incomes to eligible parties. The earned-income tax credit, in contrast, should be evaluated for its effects on labor force participation as well as the income it provides lower-income workers.

General purpose fiscal assistance and interest. The tax-exemption for public purpose State and local bonds reduces the costs of borrowing for a variety of purposes (borrowing for non-public purposes is reflected under other budget functions). The deductibility of certain State and local taxes reflected under this function primarily relates to personal income taxes (property tax deductibility is reflected under the commerce and housing function). Tax preferences for Puerto Rico and other U.S. possessions are also included here. These provisions can be compared with other tax and spending policies as means of benefiting fiscal and economic conditions in the States, localities, and possessions. Finally, the tax deferral for interest on U.S. savings bonds benefits savers who invest in these instruments. The extent of these benefits and any effects on Federal borrowing costs could be evaluated.

The above illustrative discussion, although broad, is nevertheless incomplete, omitting important details both for the provisions mentioned and the many that are not explicitly cited. Developing a framework that is sufficiently comprehensive, accurate, and flexible to reflect the objectives and effects of the wide range of tax expenditures will be a significant challenge. OMB, Treasury, and other agencies will work together, as appropriate, to address this challenge. As indicated above, over the next few years the Executive Branch's focus will be on the availability of the data needed to assess the effects of the tax expenditures designed to increase savings.