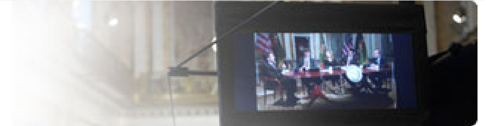
U.S. DEPARTMENT OF THE TREASURY

Press Center



FACT SHEET: Administration's FY2016 Budget Tax Proposals

2/2/2015 **View the Greenbook here.**

Today, the U.S. Department of the Treasury released the General Explanations of the Administration's FY2016 Revenue Proposals, known as the "Greenbook," which explains the Administration's revenue proposals included in the President's FY2016 Budget.

Part of these proposals make up the reserve for business tax reform, which is intended to illustrate tax policies that should be part of a revenue-neutral business tax reform plan that lowers the corporate income tax rate while broadening the tax base.

The FY2016 Greenbook Includes Key Policies to:

REFORM THE U.S. INTERNATIONAL TAX SYSTEM, AS PART OF THE RESERVE FOR BUSINESS TAX REFORM

Impose a 19-percent Minimum Tax on Foreign Income. This proposal generally would impose minimum tax on foreign income of U.S. multinationals at a rate of 19-percent reduced (but not below zero) by 85-percent of the effective foreign tax rate imposed on that income. Under the minimum tax, foreign earnings of U.S. multinationals generally would be subject to tax either immediately when earned or, if sufficiently high foreign taxes are paid on the income, not at all. Imposing an immediate minimum tax on foreign earnings that otherwise would be eligible for indefinite deferral under current law would directly address the incentives under the current system to locate production overseas and to shift and maintain profits abroad.

Impose a 14-percent One-Time Tax on Previously Untaxed Foreign Income. As part of transitioning to a reformed international tax system, this proposal would impose a one-time transition toll charge of 14-percent on untaxed foreign earnings that U.S. companies have accumulated overseas. The earnings subject to the one-time tax could then be repatriated without any further U.S. tax. The resources would be invested to update the country's crumbling infrastructure.

Limit the Ability of Domestic Entities to Expatriate. Last September, the Treasury Department took its first, targeted action to reduce the tax benefits of corporate tax inversions. However, as we have consistently said, business tax reform and specific anti-inversion legislation is the only way to fully address these transactions. This proposal would broaden the definition of an inversion under the law and thereby limit the ability of domestic entities to invert. Currently, the tax consequences of such transactions depend on the percentage of foreign shareholders following the transaction:

- If the continuing ownership is 80-percent or more: The transaction is disregarded and the company continues to be treated as a U.S. corporation for U.S. tax purposes.
- If the continuing ownership is at least 60-percent but less than 80-percent: This is considered an inversion transaction for tax purposes – the foreign status is respected but other penalties apply.

The proposal would broaden the definition of an inversion in two ways. First, it would reduce the 80-percent shareholder continuity threshold for domestic corporation status to a greater-than-50-percent threshold, and eliminate the 60-percent threshold. Second, it would provide that, regardless of the level of shareholder continuity, a transaction is an inversion if the fair market value of the stock of the

domestic entity is greater than the fair market value of the stock of the foreign acquiring corporation, and if the affiliated group that includes the foreign acquiring corporation is primarily managed and controlled in the United States and does not have substantial business activities in the foreign country.

Restrict Deductions for Excessive Interest of Members of Financial Reporting Groups. Claiming deductions for interest is a common technique used by multinational firms to erode the U.S. tax base. Under current law, foreign multinational groups are able to load up their U.S. operations with related-party debt and use the interest deductions to shift up to half of their U.S. earnings to low-tax jurisdictions. This ability gives foreign multinationals a competitive advantage over purely domestic firms, which have to pay U.S. tax on all of their earnings from U.S. operations. The proposal would address over-leveraging of a foreign-parented group's U.S. operations relative to the rest of the group's operations by limiting U.S. interest expense deductions to the U.S. subgroup's interest income plus the U.S. subgroup's proportionate share of the group's net interest expense.

Establish Tax Incentives for Locating Jobs and Business Activity in the United States and Prohibiting Tax Deductions for Shipping Jobs Overseas. The proposal would make the United States more competitive by creating a tax incentive to bring offshore jobs and investments back home, while reducing incentives to ship jobs overseas. Specifically, the proposal would create a new general business credit against income tax equal to 20-percent of the eligible expenses paid or incurred in connection with insourcing a U.S. trade or business, and would disallow deductions for expenses paid or incurred in connection with outsourcing a U.S. trade or business.

Limit Shifting of Income through Intangible Property Transfers. Under current law, there is a lack of clarity regarding the scope of the definition of intangible property that applies for purposes of taxing outbound transfers of intangible property by a U.S. person to a foreign corporation and the allocation of income and deductions among related taxpayers. These rules are intended to prevent inappropriate shifting of income from the United States to low- or no-tax jurisdictions. The proposal would provide that the definition of intangible property for these purposes also includes workforce in place, goodwill, and going concern value, and any other item owned or controlled by a taxpayer that is not a tangible or financial asset and that has substantial value independent of the services of any individual.

Restrict the Use of Hybrid Arrangements that Create Stateless Income. This proposal addresses tax avoidance techniques that exploit inconsistencies between U.S. tax law and the tax laws of foreign countries to create so-called "stateless income." The proposal would deny deductions for interest and royalty payments (which are generally deductible under current law) when such payments are made to related parties pursuant to transactions involving hybrid arrangements that result in income that is not subject to tax in any jurisdiction. In addition, the proposal would eliminate exceptions under current law which lead to situations where shareholders are not subject to tax currently in either the United States or in the related firm's foreign jurisdiction because an entity is considered a separate corporation under U.S. tax law and a pass-through entity in another jurisdiction. The proposal would require current U.S. taxation of such payments.

PROVIDE TAX RELIEF AND SIMPLIFCATIONS FOR SMALL BUSINESSES, AS PART OF THE RESERVE FOR BUSINESS TAX REFORM

Expand and Permanently Extend Increased Expensing for Small Businesses. The 2014 expensing limit of $500,000 for expensing qualifying depreciable property (including off-the-shelf computer software) would be extended through 2015. The limit would be reduced by the amount by which the cost of qualifying property exceeded $2 million. The maximum expensible amount would be increased to $1 million in 2016. This limit and the phase-out threshold of $2 million would be indexed for inflation beginning in 2017.

Expand Simplified Accounting for Small Businesses and Establish a Uniform Definition of Small Business for Accounting Methods. Beginning in 2016 and indexed to inflation thereafter, small businesses defined as those with less than $25 million in average annual gross receipts would be exempted from certain accounting requirements, allowing them to use the cash method of accounting, avoid the uniform capitalization requirements for both inventory and produced property, and use an inventory method that either conforms to the taxpayer's financial accounting method or is otherwise properly reflective of income.

Eliminate Capital Gains Taxation on Investments in Small Business Stock. This proposal would permanently extend the 100-percent exclusion from tax by a non-corporate taxpayer for capital gains realized on the sale of qualified small business stock issued after September 27, 2010 and held for more than five years. The amount of gain eligible for exclusion is limited to the greater of $10 million or 10 times the taxpayer's basis in the stock. The proposal would also eliminate the inclusion of excluded gain from the Alternative Minimum Tax. Further, a taxpayer is able to roll over capital gain on stock held for more than six months if other qualified small business stock is purchased within 60 days. The proposal would create a new option that would extend the period for acquiring replacement stock to six months for stock held more than three years. This proposal would encourage new investment in qualified small business stock.

Increase the Limitations for Deductible New Business Expenditures and Consolidate Provisions for Start-Up and Organizational Expenditures. A taxpayer is generally allowed to deduct up to $5,000 of start-up expenditures in the taxable year in which an active trade or business begins, and may deduct up to $5,000 of organizational expenditures in the taxable year in which a corporation or partnership begins business. In each case, the $5,000 amount is reduced (but not below zero), by the amount by which such expenditures exceed $50,000. The proposal would consolidate these provisions, and would allow $20,000 of combined new business expenditures to be expensed, beginning in 2016. That immediately expensed amount would be reduced by the amount by which the combined new business expenditures exceed $120,000.

Expand and Simplify the Tax Credit Provided to Qualified Small Employers for Non-Elective Contributions to Employee Health Insurance. This proposal would expand the credit for small employers to provide health insurance for employees and their families to employers with up to 50 (rather than 25) full-time equivalent employees and would phase out the credit between 20 and 50, rather than between 10 and 25, full-time equivalent employees. A new phase-out methodology would benefit qualified smaller businesses by ensuring they were eligible for some amount of credit if they met the statutory constraints.

ENCOURAGE MANUFACTURING, RESEARCH, CLEAN ENERGY, INSOURCING, AND JOB CREATION, AS PART OF THE RESERVE FOR BUSINESS TAX REFORM

Enhance and Make Permanent Research Incentives. Current law provides a research and experimentation (R&E) credit, computable under one of two allowable methods. Under the “traditional” method, the credit is 20-percent of qualified research expenses above a base amount related to the firm’s historical research intensity during the 1984 to 1988 period. Under the alternative simplified research credit (ASC), the credit is 14-percent of qualified research expenses in excess of a base amount reflecting its research spending over the prior three years. The R&E tax credit expired on December 31, 2014. This proposal would make the R&E tax credit permanent, retain only the ASC computation increase the rate of the ASC from 14-percent to 18-percent, allow the credit to offset Alternative Minimum Tax liability, repeal a special rule for pass-thru entities that limited use of the credit, and allow 75-percent of payments to qualified non-profit organizations (such as universities) to be included as contract research (an increase from 65-percent).

Extend and modify certain employment tax credits, including incentives to hire veterans. This proposal would permanently extend the Work Opportunity Tax Credit (WOTC) and the Indian Employment Credit, both of which expired at the end of 2014. Beginning in 2016, the Administration also proposes to:

- Expand the definition of disabled veterans eligible for the WOTC to include disabled veterans who use the GI bill to receive education or training starting within one year after discharge and who are hired within six months of leaving the program; and
- Modify the Indian Employment Credit by changing base year wages to the average of those costs in the prior two years, rather than using the current law base year of 1993.

Modify and Permanently Extend Renewable Electricity Production Tax Credit and the Investment Tax Credit. This proposal would permanently extend the renewable electricity production tax credit, make it refundable, and make it available to otherwise eligible renewable electricity consumed directly by the producer rather than sold to an unrelated third party, provided this production can be independently verified. This proposal would also allow individuals to claim the production tax credit for electricity produced in connection with a residence, regardless of whether it is consumed on-site or sent back to the grid. The current credit for residential energy property would be allowed to expire at the end of 2016. Further, the proposal would permanently extend the renewable energy investment tax credit for businesses under the terms available in 2016. Specifically, the proposal would permanently extend the 30-percent investment tax credit for solar, fuel cell, and small wind property and the 10-percent credit for geothermal and other sources.

Provide a Carbon Dioxide Investment and Sequestration Tax Credit. This proposal would provide $2 billion for a new, refundable allocable investment tax credit for carbon capture and storage property. In determining the award of the investment tax credit, the Treasury Secretary would consider (i) the credit per ton of net sequestration capability and (ii) the expected contribution of the technology and the type of plant to which that technology is applied to the long-run economic viability of carbon sequestration from fossil fuel combustion. The proposal would also provide a 20-year, indexed, refundable sequestration tax credit. The credit would be $50 per metric ton of carbon dioxide permanently sequestered and not beneficially reused (e.g., in enhanced oil recovery) and $10 per metric ton for carbon dioxide that is permanently sequestered and beneficially reused.

ENCOURAGE REGIONAL GROWTH, AS PART OF THE RESERVE FOR BUSINESS TAX REFORM

Modify and Permanently Extend the New Markets Tax Credit (NMTC). The proposal would permit NMTCs resulting from qualified equity investments made after December 31, 2014, to offset Alternative Minimum Tax liability, which is not currently allowed. This proposal would also permanently extend the NMTC and provide $5 billion of credit allocation authority per year. This would create greater certainty for taxpayers and encourage additional capital investments in low-income communities.

Reform and Expand the Low-Income Housing Tax Credit (LIHTC). The President's Budget includes several proposals to reform and expand the LIHTC including allowing conversion of private activity bond (PAB) volume cap into LIHTCs. Under current law, each state is provided annually a statutorily determined amount of LIHTCs (the LIHTC ceiling) for the state to allocate to developers who want to construct or rehabilitate buildings for low-income residents. Also, under current law, each state is provided annually a statutorily determined limit (volume cap) on the qualified PABs that the state may issue. If a low-income building is at least half financed with PABs subject to the volume cap, the building may earn LIHTCs that are not subject to the state's LIHTC ceiling but that are earned at a lower rate than the rate that generally applies to allocated LIHTCs. A major part of the proposal is that it would allow each state annually to convert up to 18-percent of its PAB volume cap into an increase in its LIHTC ceiling. If a developer is awarded sufficient PAB volume cap to issue bonds that would qualify its building for LIHTCs but the developer does not need PAB financing, then the developer would be able to convert its volume cap into the amount of LIHTCs that it would have earned if it had issued the bonds and financed the building with them.

ENCOURAGE INVESTMENT IN INFRASTRUCTURE, AS PART OF THE RESERVE FOR BUSINESS TAX REFORM

Provide America Fast Forward Bonds (AFFB) and Expand Eligible Uses. To build upon the successful temporary Build America Bond program under the American Recovery and Reinvestment Act of 2009, this proposal would create a new, expanded, and permanent America Fast Forward Bond (AFFB) program as an optional alternative to traditional tax-exempt bonds. AFFBs would be taxable bonds issued by state and local governments for which the federal government makes direct borrowing subsidy payments to those issuers (through refundable tax credits) at a subsidy rate equal to 28-percent of the coupon interest on the bonds. This subsidy rate is intended to be approximately revenue neutral relative to the estimated future federal tax expenditures for tax-exempt bonds. As an expansion of uses, AFFBs could be used for projects typically financed with qualified private activity bonds in order to support a wide variety of public investments.

Provide "Qualified Public Infrastructure Bonds," (QPIBs). To facilitate public-private partnerships, this proposal would create a new category of tax-exempt qualified private activity bonds, called "Qualified Public Infrastructure Bonds" (QPIBs) to finance specified types of infrastructure projects. The projects must be owned by state or local governments and be available for general public use. Eligible types of projects would include airports, docks and wharves, mass commuting facilities, facilities for the furnishing of water, sewage facilities, solid waste disposal facilities, and qualified highway or surface freight transfer facilities. The proposal would be effective for bonds issued starting January 1, 2016.

OTHER BUDGET PROPOSALS SEPARATE FROM THE RESERVE FOR BUSINESS TAX REFORM

CREATE A SIMPLER, FAIRER TAX CODE THAT RESPONSIBLY INVESTS IN MIDDLE CLASS FAMILIES

Reform the Taxation of Capital Income to Help Ensure the Wealthiest Pay their Fair Share of Taxes. This proposal eliminates the capital gains step-up in basis at death with protections for the middle class, surviving spouses, small businesses and charities. Among other provisions, there would be a $100,000 per-person exclusion of other gains recognized at death. The proposal also raises the top tax rate on capital gains and qualified dividends from 20-percent to 24.2-percent, or 28-percent including the net investment income tax.

Impose a Financial Fee. To discourage excessive risk-taking by financial firms, large financial firms would pay a 7 basis point fee on their liabilities.

Provide a New, Simple Tax Credit to Two-Earner Families. This proposal would provide a $500 second earner credit to help cover the additional costs faced by families in which both spouses work. The proposal would benefit nearly 24 million low- and middle-income two-earner married couples.

Streamline Child Care Tax Incentives to Give Middle-Class Families with Young Children a Tax Cut of up to $3,000 per Child. This proposal would streamline and expand child care tax benefits with larger tax credits for taxpayers with younger children, for whom care is more expensive. The proposal would help 5.1 million families cover child care costs for 6.7 million children.

Simplify and better target education tax benefits to improve college affordability. This proposal would consolidate several overlapping education provisions, while improving the American Opportunity Tax Credit to provide more students up to $2,500 each year over five years as they work toward a college degree.

Make it easy and automatic for workers to save for retirement. This proposal would dramatically expand access to employer-based retirement savings options, including automatic IRA options for employees.

RAISE ADDITIONAL REVENUE BY ASKING THE WEALTHIEST TO PAY THEIR FAIR SHARE

Limit certain tax expenditures for the most affluent by capping their value at 28-percent. This proposal would limit the tax rate at which upper-income taxpayers can use itemized deductions and other tax preferences to reduce tax liability to a maximum of 28-percent. This limitation would reduce the value to 28-percent of the specified exclusions and deductions that would otherwise reduce taxable income in the top three individual income tax rate brackets of 33, 35, and 39.6-percent.

Implement the Buffett Rule by imposing a new "Fair Share Tax." The Budget ensures that high-income taxpayers cannot use deductions and low rates on capital gains and dividends to pay a lower effective rate of tax than many middle-class families. The tax is intended to ensure that very high income families pay tax equivalent to no less than 30-percent of their income, adjusted for charitable donations.

Eliminate a depreciation benefit for corporate jets and other general aviation passenger aircraft. Under current law, airplanes used in commercial and contract carrying of passengers and freight generally are depreciated over seven years. Airplanes not used in commercial or contract carrying of passengers or freight, such as corporate jets, generally are depreciated over five years. The Budget proposes to increase the depreciation recovery period for general aviation airplanes that carry passengers to seven years.

Tax carried interest profits as ordinary income. Current law provides that an item of income or loss of the partnership retains its character and flows through to the partners, regardless of whether the partners received their interests in the partnership in exchange for services. Thus, some service partners in investment partnerships are able to pay a 20-percent long-term capital gains tax rate, rather than ordinary income tax rates on income items from the partnership. The Administration would tax as ordinary income a partner's share of income on an "investment service partnership interest" (ISPI) 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 ISPI that is not attributable to invested capital would generally be taxed as ordinary income, not as capital gain.

Close Loopholes that Allow Professional Services Business to Avoid Self-Employment Payroll Taxes. This loophole has garnered attention in recent years after being exploited by some taxpayers to avoid paying Medicare payroll taxes on earnings by establishing S-corporations and partnerships and treating only a portion of their total earnings as taxable wages (with the remainder characterized as capital income). The Administration proposes to tax owners of these pass-through businesses providing professional services consistently, regardless of the legal form of the organization.

Restore the Estate, Gift, and Generation-Skipping Transfer (GST) Tax Parameters in Effect in 2009. This proposal would make permanent the estate, GST, and gift tax parameters as they applied during 2009. The top tax rate would be 45-percent and the exclusion amount would be $3.5 million for estate and GST taxes, and $1 million for gift taxes. The proposal would be effective for the estates of decedents dying, and for transfers made, after December 31, 2015.

Modify Transfer Tax Rules for Grantor Retained Annuity Trusts (GRAT) and other Grantor Trusts.

Donors use certain types of trusts to hold assets in a way that allows the donor to receive a stream of income from those assets, while transferring expected appreciation to donees without paying a gift tax. These planning techniques can yield results that are overly generous to taxpayers. The proposal would make overly generous outcomes more difficult to achieve by requiring that donors leave assets in GRATs for a fairly long period of time. The proposal also requires that there be a significant value of the part of the GRAT that is transferred to the donee and subject to gift tax. In addition, the proposal would prohibit any decrease in the annuity during the GRAT term, and would prohibit the grantor from engaging in a tax-free exchange of any asset held in the trust. Finally, this proposal combines last year's GRATs and grantor trust proposals into a single proposal.

STREAMLINE AND IMPROVE TAX ADMINISTRATION

Increase Funding for IRS Enforcement by Creating a "Program Integrity Cap." This proposal would adjust the discretionary spending limits for IRS tax enforcement, compliance, and related activities, including tax administration activities at the Alcohol and Tobacco Tax and Trade Bureau. The proposed cap adjustment for fiscal year 2016 will fund $667 million in enforcement and compliance initiatives and investments above current levels of activity, allowing the IRS to continue to target international tax compliance and restore previously reduced enforcement levels. Beyond 2016, the Administration proposes further increases in new enforcement and compliance initiatives each fiscal year from 2017 through 2020 and to sustain all of the new initiatives and inflationary costs via cap adjustments through FY 2025.

Improve the Whistleblower Program. This proposal would explicitly protect whistleblowers from retaliatory actions, consistent with the protections currently available to whistleblowers under the False Claims Act. In addition, the proposal would also provide that certain safeguarding requirements apply to whistleblowers and their legal representatives who receive tax return information in whistleblower administrative proceedings and extend the penalties for unauthorized inspections and disclosures of tax return information to whistleblowers and their legal representatives.

Combat Tax-Related Identity Theft. This proposal would provide that criminals who are convicted for tax-related identity theft may be subject to longer sentences than the sentences that apply to those criminals under current law. In addition, the proposal would add a $5,000 civil penalty to the Code to be imposed in tax identity theft cases on the individual who filed the fraudulent return. Under the proposal, the IRS would be able to immediately assess a separate civil penalty for each incidence of identity theft. There is no maximum penalty amount that may be imposed.

Rationalize Tax Return Filing Due Dates so They are Staggered. This proposal moves up the filing deadlines for certain information returns and returns filed by partnerships to allow the IRS to conduct third-party information return matching earlier in the filing season and to give individual taxpayers more complete information before their individual income tax returns are due. The proposal would also accelerate the due date for filing for most information returns, including Forms 1099 and Forms W-2, from late February to January 31, the same day that the payee statements are due.

Increase Oversight and Due Diligence of Paid Tax Return Preparers. This proposal would explicitly provide that the Secretary of the Treasury has the authority to regulate all paid tax return preparers. It would also increase the penalty rate on paid tax return preparers for understatements due to willful or reckless conduct to the greater of $5,000 or 75-percent (instead of the current 50-percent) of the income derived (or to be derived) by the preparer with respect to the return or claim for refund. In addition, it would also extend due diligence requirements similar to those for the Earned Income Tax Credit (EITC) to the Child Tax Credit (CTC). The existing checklist would be expanded and adapted to reflect the differences in requirements between the EITC and the CTC, while ensuring that the additional burden to preparers and filers is minimized.

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