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The President's Groundhog's Day Budget Casts a Shadow on Some but Offers Sunshine for Others

By: Mary Burke Baker, Karishma S. Page, Ryan J. Severson, Andrés Gil, David A. Walker, Sarah M. Beason

On February 2nd, President Obama released his Fiscal Year (FY) 2016 budget request to Congress. Along with the budget, the Department of the Treasury (Treasury) released a volume called "General Explanations of the Administration's Fiscal Year 2016 Revenue Proposals," also known as "the Green Book." The Green Book is an annual compilation of the tax proposals in the Administration's budget, including a brief explanation of each proposal and its estimated revenue effect. This year's Green Book includes a series of provisions reflecting many of the themes and policies outlined in the President's State of the Union address, including business and international tax reform, bolstering the middle class, fairness, improving tax administration and voluntary compliance, and raising revenues. As with Punxsutawney Phil, the question is whether you will see a shadow or sunshine when you read about the proposals. And, like Phil, that depends on where you stand on any particular issue.

The Green Book is an important document, providing signals about the President's priorities and offering clues about where the Administration and Congress can find common ground. Put another way, the Green Book can be seen as a menu of revenue-raisers that Congress may consider and adopt. As such, it is critical for stakeholders to understand the impact of the Green Book's proposals on their organizations and seize on opportunities to educate policymakers about these proposals moving forward.

This alert provides an overview of key tax provisions and themes in the President's Budget. It also includes a detailed matrix listing each Green Book proposal, comparing this year's list to last year's, and the revenue effect of each provision. We would be happy to discuss any of these items in more detail at your convenience.

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Provision	FY 2015 10-Year Revenue ($M)	FY 2016 10-Year Revenue ($M)
Revenue Provisions Contained in the Obama Administration's FY 2016 Revenue Proposals[1] (with Comparisons to FY 2015 Budget) *New proposals are in bold; proposals that were in the FY 2015 budget but not in the FY 2016 budget have been stricken through*		
Revenue Estimates of Reserve for Business Tax Reform That Is Revenue-Neutral in the Long Run *FY 2015: Revenue Estimates of Reserve for Long-Run, Revenue-Neutral Business Tax Reform Proposals*		
Reform the U.S. International Tax System		
Restrict deductions for excessive interest of members of financial reporting groups	48,581	64,126
Provide tax incentives for locating jobs and business activity in the United States and remove tax deductions for shipping jobs overseas *FY 2015: Located in Incentives For Manufacturing, Research, Clean Energy, and Insourcing and Creating Jobs*	-212	-247
Repeal delay in the implementation of worldwide interest allocation	**N/A**	**-12,207**
Extend the exception under Subpart F for active financing income	**N/A**	**-81,333**
Extend the look-through treatment of payments between related controlled foreign corporations (CFC)	**N/A**	**-9,733**
Impose a 19-percent minimum tax on foreign income	**N/A**	**205,976**
Impose a 14-percent onetime tax on previously untaxed foreign income	**N/A**	**268,129**
~~Defer deduction of interest expense related to deferred income of foreign subsidiaries~~	~~43,138~~	
~~Determine the Foreign Tax Credit on a pooling basis~~	~~74,672~~	
~~Tax currently excess returns associated with transfers of intangibles offshore~~	~~25,965~~	
Limit shifting of income through intangible property transfers	2,728	3,072
Disallow the deduction for excess non-taxed reinsurance premiums paid to affiliates	7,568	7,388

[1] The Budget uses an adjusted baseline that permanently continues three temporary tax provisions scheduled to expire at the end of 2017: expansions to the Child Tax Credit, the Earned Income Tax Credit, and the American Opportunity Tax Credit.

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Modify tax rules for dual-capacity taxpayers	10,382	10,315
Tax gain from the sale of a partnership interest on look-through basis	2,795	2,974
~~Prevent use of leveraged distributions from related foreign corporations to avoid dividend treatment~~	~~3,548~~	
Extend section 338(h)(16) to certain asset acquisitions	960	672
Remove foreign taxes from a section 902 corporation's foreign tax pool when earnings are eliminated	423	317
Create a new category of Subpart F income for transactions involving digital goods or services	11,660	8,706
Expand foreign base company sales income to include manufacturing service arrangements *FY 2015: Prevent avoidance of foreign base company sales income through manufacturing service arrangements*	24,608	18,375
Amend the CFC attribution rules	**N/A**	**3,400**
Eliminate the 30-day grace period before Subpart F inclusions	**N/A**	**1,195**
Restrict the use of hybrid arrangements that create stateless income	937	1,133
Limit the application of exceptions under Subpart F for certain transactions that use reverse hybrids to create stateless income	1,336	1,402
Limit the ability of domestic entities to expatriate	17,004	12,754
Reform the U.S. International Tax System Subtotal		**238,285**

Simplification and Tax Relief for Small Business ***FY 2015: Tax Relief for Small Business***		
Expand and permanently extend increased expensing for small business*[2] *FY 2015: Extend increased expensing for small business*	-56,828	-63,845
Expand simplified accounting for small business and establish a uniform definition of small business for accounting methods	**N/A**	**-14,757**
Eliminate capital gains taxation on investments in small business stock*	-9,202	-9,215
Increase the limitations for deductible new business expenditures and consolidate provisions for start-up and organizational expenditures	-4,258	-4,221
Expand and simplify the tax credit provided to qualified small employers for non-elective contributions to employee health insurance	-1,326	-1,550
Simplification and Tax Relief for Small Business Subtotal		**-93,588**

[2] Asterisks identify tax extender proposals.

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Incentives for Manufacturing, Research, and Clean Energy *FY 2015: Incentives for Manufacturing, Research, Clean Energy, and Insourcing and Creating Jobs*		
Enhance and make permanent research incentives* *FY 2015: Enhance and make permanent the R&E tax credit*	-108,146	-127,732
Extend and modify certain employment tax credits, including incentives for hiring veterans*	-9,714	-10,488
Modify and permanently extend renewable electricity production tax credit **and investment tax credit*** *FY 2015: Modify and permanently extend Renewable Electricity Production Tax Credit*	-19,286	-31,452
Modify and permanently extend the deduction for energy-efficient commercial building property*	-6,068	-2,672
Provide a carbon dioxide investment and sequestration tax credit	**N/A**	**-5,040**
Provide additional tax credits for investment in qualified property used in a qualifying advanced energy manufacturing project *FY2015: Included in Revenue Estimates of FY 2015 Budget Proposals - Incentives for Job Creation, Clean Energy, and Manufacturing*	-1,896	-2,103
Provide new Manufacturing Communities Tax Credit *FY 2015: Included in Revenue Estimates of FY 2015 Budget Proposals - Incentives for Job Creation, Clean Energy, and Manufacturing*	-4,664	-4,893
Extend the tax credit for second- generation biofuel production* *FY 2015: Extend the tax credit for cellulosic biofuels - included in Revenue Estimates of FY 2015 Budget Proposals - Incentives for Job Creation, Clean Energy, and Manufacturing*	1,698	-1,223
Incentives for Manufacturing, Research, and Clean Energy Subtotal		**-185,603**
Incentives to Promote Regional Growth		
Modify and permanently extend the New Markets Tax Credit (NMTC)*	-8,713	-10,094
~~Restructure assistance to New York City, provide tax incentives for transportation infrastructure*~~	~~-2,000~~	
Reform and expand the LIHTC*	-1,390	-3,993
Incentives to Promote Regional Growth Subtotal		**-14,087**
Incentives for Investment in Infrastructure ***FY 2015: located in Revenue Estimates of FY 2015 Budget Proposals***		
Provide America Fast Forward Bonds (AFFB) and expand eligible uses	-1	1
Allow eligible uses of AFFB to include financing all qualified private activity bond program categories	-246	-259
Allow current refundings of State and local governmental bonds	-48	-46
Repeal the $150 million non-hospital bond limitation on qualified 501(c)(3) bonds	-82	-82
Increase national limitation amount for qualified highway or surface freight transfer facility bonds	-669	-1,076

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Provide a new category of qualified private activity bonds for infrastructure projects referred to as "Qualified Public Infrastructure Bonds"	**N/A**	**-4,834**
Modify qualified private activity bonds for public education facilities	**N/A**	**---**
Modify treatment of banks investing in tax-exempt bonds	**N/A**	**-3,434**
Repeal tax-exempt bond financing of professional sports facilities	**N/A**	**542**
~~Eliminate the volume cap for private activity bonds for water infrastructure~~	~~-201~~	
~~Increase the 25-percent limit on land acquisition restriction on private activity bonds~~	~~-141~~	
Allow more flexible research arrangements for purposes of private business use limits	-13	-16
~~Repeal the government ownership requirement for certain types of exempt facility bonds~~	~~-3,259~~	
Modify tax-exempt bonds for Indian tribal governments *FY 2015: Located in Revenue Estimates of FY 2015 Budget Proposals - Incentives for Job Creation, Clean Energy, and Manufacturing*	-112	-112
Exempt foreign pension funds from the application of Foreign Investment in Real Property Tax Act	-2,272	-2,390
Incentives for Investment in Infrastructure Subtotal		**-11,706**
Eliminate Fossil-Fuel Preferences		
Eliminate Oil and Natural Gas Preferences		
Repeal enhanced oil recovery credit	0	0
Repeal credit for oil and natural gas produced from marginal wells	0	0
Repeal expensing of intangible drilling costs	14,350	15,495
Repeal deduction for tertiary injectants	100	97
Repeal exception to passive loss limitation for working interests in oil and natural gas properties	59	185
Repeal percentage depletion for oil and natural gas wells	13,030	13,253
Repeal domestic manufacturing deduction for oil and natural gas production	14,218	11,904
Increase geological and geophysical amortization period for independent producers to seven years	3,081	2,876
Eliminate Oil and Natural Gas Preferences Subtotal		**43,810**
Eliminate Coal Preferences		
Repeal expensing of exploration and development costs	679	694
Repeal percentage depletion for hard mineral fossil fuels	2,052	2,450
Repeal capital gains treatment for royalties	508	547
Repeal domestic manufacturing deduction for the production of coal and other hard mineral fossil fuels	726	561
Eliminate Coal Preferences Subtotal		**4,252**
Treat publicly traded partnerships for fossil fuels as C corporations	**N/A**	**1,699**

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Eliminate Fossil-Fuel Preferences Subtotal		**49,761**
Reform Treatment of Financial and Insurance Industry Institutions and Products		
Require that derivative contracts be marked to market with resulting gain or loss treated as ordinary	18,804	19,796
Modify rules that apply to sales of life insurance contracts	495	502
Modify proration rules for life insurance company general and separate accounts	6,317	7,543
Expand pro rata interest expense disallowance for corporate-owned life insurance	5,546	6,279
Conform net operating loss rules of life insurance companies to those of other corporations	**N/A**	**319**
Reform Treatment of Financial and Insurance Industry Institutions and Products Subtotal		**34,439**
Other Revenue Changes and Loophole Closers		
Repeal last-in, first-out (LIFO) method of accounting for inventories	82,708	76,092
Repeal lower-of-cost-or-market (LCM) inventory accounting method	7,495	7,591
Modify like-kind exchange rules for real property and collectibles *FY 2015: Modify like-kind exchange rules for real property*	18,270	19,542
Modify depreciation rules for purchases of general aviation passenger aircraft	3,210	3,538
Expand the definition of substantial built-in loss for purposes of partnership loss transfers	76	80
Extend partnership basis limitation rules to nondeductible expenditures	1,017	1,051
Limit the importation of losses under related party loss limitation rules	913	945
Deny deduction for punitive damages	338	455
Conform corporate ownership standards	564	308
Tax corporate distributions as dividends		
Prevent elimination of earnings and profits through distributions of certain stock	391	**---**
Prevent use of leveraged distributions from related foreign corporations to avoid dividend treatment *FY 2015:Located in Revenue Estimates of Reserve for Long-Run Revenue-Neutral Business Tax Reform Proposals - Reform U.S. International Tax System*	3,548	250
Treat purchases of hook stock by a subsidiary as giving rise to deemed distributions	**NA**	**58**
Repeal gain limitation for dividends received in reorganization exchanges	3,051	632
Tax corporate distributions as dividends Subtotal		**940**
Repeal Federal Insurance Contributions Act tip credit		**12,329**
Repeal the excise tax credit for distilled spirits with flavor and wine	1,093	1,093

additives		
Other Revenue Changes and Loophole Closers Subtotal		**123,964**
Revenue Estimates of Reserve for Business Tax Reform That Is Revenue-Neutral in the Long Run Total		**141,465**

Revenue Estimates of FY 2016 Budget Proposals		
Tax Reform for Families and Individuals ***FY 2015: Tax Cuts for Families and Individuals***		
Reform child care tax incentives* *FY2015: Expand the Child and Dependent Care Tax Credit*	-9,610	-49,872
Simplify and Better Target Tax Benefits for Education		
Expand and modify the AOTC and repeal Lifetime Learning Credits	**N/A**	**-31,293**
Make Pell Grants excludable from income *FY 2015: Make Pell Grants excludable from income and from tax credit calculations*	-8,864	-17,555
Modify reporting of tuition expenses and scholarships on Form 1098-T *FY 2015 included in Reduce the Tax Gap and Make Reforms - Expand Information Reporting*	606	618
Repeal the student loan interest deduction and provide exclusion for certain debt relief and scholarships	**N/A**	**1,248**
~~**Repeal Coverdells and reduce the Federal tax benefits of qualified tuition programs**~~	~~**N/A**~~	~~**1,284**~~
Provide for automatic enrollment in IRAs, including a small employer tax credit, increase the tax credit for small employer plan start-up costs, and provide an additional tax credit for small employer plans newly offering auto-enrollment *FY 2015 Provide for automatic enrollment in IRAs, including a small employer tax credit, and double the tax credit for small employer plan start-up costs*	-14,507	-17,119
Expand penalty-free withdrawals for long-term unemployed	**N/A**	**-2,458**
Require retirement plans to allow long-term part-time workers to participate	**N/A**	**-468**
Facilitate annuity portability	**N/A**	**---**
Simplify minimum required distribution rules *FY 2015: Included in Simplify the Tax System*	484	407
Allow all inherited plan and IRA balances to be rolled over within 60 days *FY 2015: Included in Simplify the Tax System*	---	---
Expand the EITC for workers without qualifying children	-59,740	-59,944
Simplify the rules for claiming the EITC for workers without qualifying children *FY 2015: Included in Simplify the Tax System*	-5,509	-5,653
Provide a second-earner tax credit	**N/A**	**-89,031**
Extend exclusion from income for cancellation of certain home	-7,665	-6,967

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mortgage debt*		
~~Provide exclusion from income for student loan forgiveness for students in certain income-based or income-contingent repayment programs who have completed payment obligations~~	~~-5~~	
~~Provide exclusion from income for student loan forgiveness and for certain scholarship amounts for participants in the IHS Health Professions Programs~~	~~-165~~	
Tax Reform for Families and Individuals Subtotal		**-276,803**
Reforms to Capital Gains Taxation, Upper-Income Tax Benefits, and the Taxation of Financial Institutions *FY 2015: Upper-Income Tax Provisions and Reform Treatment of Financial Industry Institutions and Products*		
Reduce the value of certain tax expenditures	598,066	603,226
Reform the taxation of capital income	**N/A**	**207,884**
Implement the Buffet Rule by imposing a new "Fair Share Tax"	53,026	35,176
Impose a financial fee *FY 2015: Impose a financial crisis responsibility fee*	56,024	111,814
Reforms to Capital Gains Taxation, Upper-Income Tax Benefits, and the Taxation of Financial Institutions Subtotal		**958,100**
Loophole Closers		
Require current inclusion in income of accrued market discount and limit the accrual amount for distressed debt *FY 2015: Included in Reform Treatment of Financial Industry Institutions and Products*	350	391
Require that the cost basis of stock that is a covered security must be determined using an average cost basis method *FY 2015: Included in Reform Treatment of Financial Industry Institutions and Products*	3,515	4,375
Tax carried (profits) interests as ordinary income	13,797	17,698
Require non-spouse beneficiaries of deceased IRA owners and retirement plan participants to take inherited distributions over no more than five years	5,159	5,479
Limit the total accrual of tax-favored retirement benefits	28,377	26,043
Conform SECA taxes for professional service businesses	37,679	74,551
Limit Roth conversions to pre-tax dollars	**N/A**	**395**
Eliminate deduction for dividends on stock of publicly traded corporations held in employee stock ownership plans *FY 2015: Included in Other Revenue Raisers*	7,883	8,622
Repeal exclusion of net unrealized appreciation in employer securities	**N/A**	**2,531**
Disallow the deduction for charitable contributions that are a prerequisite for purchasing tickets to college sporting events	**N/A**	**2,546**
Loophole Closers Subtotal		**142,631**
Incentives for Job Creation, Clean Energy, and Manufacturing		
Designate Promise Zones	-5,876	-8, 627
Provide a tax credit for the production of advanced technology vehicles	-4,825	-2,947

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Provide a tax credit for medium- and heavy-duty alternative-fuel commercial vehicles	-401	-371
Modify and extend the tax credit for the construction of energy-efficient new homes*	-2,048	-2,498
Reduce excise taxes on liquefied natural gas to bring into parity with diesel	-20	-69
Enhance and Modify the Conservation Easement Deduction		
Permanently enhance incentives and reform the deduction for donations of conservation easements *FY 2015: Enhance and make permanent incentives for the donation of conservation easements - located in Other Revenue Raisers*	-331	-254
Pilot an allocable credit for conservation contributions and report to Congress	**N/A**	**-244**
Eliminate the deduction for contributions of conservation easements on golf courses *FY 2015: located in Other Revenue Raisers*	619	571
Restrict deductions and harmonize the rules for contributions of conservation easements for historic preservation	234	199
Enhance and Modify the Conservation Easement Deduction Subtotal		272
Incentives for Job Creation, Clean Energy, and Manufacturing Subtotal		-14,240
Modify Estate and Gift Tax Provisions		
Restore the estate, gift, and GST tax parameters in effect in 2009	118,282	189,311
Require consistency in value for transfer and income tax purposes	2,501	3,237
Modify transfer tax rules for grantor-retained annuity trusts and other grantor trusts *FY 2015: Require a minimum term for GRATs and Coordinate certain income and transfer tax rules applicable to grantor trusts*	5,711	18,354
Limit duration of GST tax exemption	---	---
Extend the lien on estate tax deferrals where estate consists largely of interest in closely held business	213	248
Modify GST tax treatment of Health and Education Exclusion Trusts	-218	-231
Simplify gift tax exclusion for annual gifts	2,924	3,446
Expand applicability of definition of executor	---	**---**
Modify Estate and Gift Tax Provisions Subtotal		**214,365**
Other Revenue Raisers		
Increase and modify Oil Spill Liability Trust Fund financing *FY 2015: Increase the Oil Spill Liability Trust Fund financing rate by one cent and update the law to include other sources of crudes*	951	1,628
Reinstate and extend Superfund excise taxes	8,611	7,966
Reinstate Superfund Environmental Income Tax	14,659	13,277
Increase tobacco taxes and index for inflation	78,217	95,142
Make unemployment insurance surtax permanent	15,200	15,686
Provide short-term tax relief to employers and expand federal unemployment tax act (FUTA) base	58,982	44,755
Other Revenue Raisers Subtotal		**178,454**

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Reduce the Tax Gap and Make Reforms		
Expand Information Reporting		
Require a certified taxpayer identification number (TIN) from contractors and allow certain withholding	1,321	823
Require information reporting for private separate accounts of life insurance companies	8	8
Provide an exception to the limitation on disclosing tax return information to expand TIN matching beyond forms where payments are subject to backup withholding	**N/A**	**---**
Provide for reciprocal reporting of information in connection with the implementation of FATCA	---	---
Improve mortgage interest deduction reporting	**N/A**	**1,918**
Require Form W-2 reporting for employer contributions to defined contribution plans	**N/A**	**---**
Expand Information Reporting Subtotal		**2,749**
Improve Compliance by Businesses		
Increase certainty with respect to worker classification	9,610	10,170
Increase information sharing to administer excise taxes	148	147
~~Implement standards clarifying when employee leasing companies can be held liable for their clients' Federal employment taxes~~	~~64~~	
Provide authority to readily share information about beneficial ownership information of U.S. companies with law enforcement	**N/A**	**34**
Improve Compliance by Businesses Subtotal		**10,351**
Strengthen Tax Administration		
Impose liability on shareholders to collect unpaid income taxes of applicable corporations	5,238	5,424
Increase levy authority for payments to Medicare providers with delinquent tax debt	743	514
Implement a program integrity statutory cap adjustment for tax administration	52,004	59,735
Streamline audit and adjustment procedures for large partnerships	1,798	2,407
Revise offer-in-compromise application rules	17	18
Expand IRS access to information in the National Directory of New Hires for tax administration purposes	---	---
Make repeated willful failure to file a tax return a felony	10	10
Facilitate tax compliance with local jurisdictions	16	17
Extend statute of limitations for assessment of overstated basis and State adjustments *FY 2015:Extend statute of limitations where State adjustment affects Federal tax liability*	25	856
Improve investigative disclosure statute	10	10

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~~Require taxpayers who prepare their returns electronically but file their returns on paper to print their returns with a scannable code~~	~~---~~	
Allow the IRS to absorb credit and debit card processing fees for certain tax payments	19	20
Provide the IRS with greater flexibility to address correctible errors	173	639
Enhance electronic filing of returns *FY 2015: Require greater electronic filing of returns, located in Improve Compliance by Businesses, Make e-filing mandatory for exempt organizations, Authorize the Department of the Treasury to require additional information to be included in electronically filed Form 5500 Annual Reports and electronic filing of certain other employee benefit plan reports, and Impose a penalty on failure to comply with electronic filing requirements*	---	10
Improve the whistleblower program *FY 2015: Provide whistleblowers with protection from retaliation and Provide stronger protection from improper disclosure of taxpayer information in whistleblower actions*	---	---
Index all penalties to inflation	631	---
Extend IRS authority to require a truncated SSN on Form W-2	---	---
Combat tax-related identity theft *FY 2015: Add tax crimes to the Aggravated Identity Theft Statute and Impose a civil penalty on tax identity theft crimes*	---	---
Allow States to send notices of intent to offset Federal tax refunds to collect State tax obligations by regular first-class mail instead of certified mail	---	---
Rationalize tax return filing due dates so they are staggered	2,581	1,630
Increase Oversight and Due Diligence of Paid Tax Return Preparers		
Extend paid preparer EITC due diligence requirements to the child tax credit *FY 2015: Included in Strengthen Tax Administration*	---	---
Explicitly provide that the Department of the Treasury and IRS have authority to regulate all paid return preparers	---	427
Increase the penalty applicable to paid tax preparers who engage in willful or reckless conduct	8	8
Increase Oversight and Due Diligence of Paid Tax Return Preparers Subtotal		435
Enhance administrability of the appraiser penalty	---	---
Strengthen Tax Administration Subtotal		**71,725**
Reduce the Tax Gap and Make Reforms Subtotal		**84,825**
Simplify the Tax System		
Modify adoption credit to allow tribal determination of special needs	-6	-5
Repeal non-qualified preferred stock designation	405	326
Repeal preferential dividend rule for publicly traded and publicly offered REITs	---	---
Reform excise tax based on investment income of private	-47	-53

foundations		
Remove bonding requirements for certain taxpayers subject to Federal excise taxes on distilled spirits, wine, and beer	---	---
Simplify arbitrage investment restrictions	-431	-344
Simplify single-family housing mortgage bond targeting requirements	-121	-97
Streamline private business limits on governmental bonds	-100	-81
~~Exclude self-constructed assets of small taxpayers from the uniform capitalization rules~~	~~-841~~	
Repeal technical terminations of partnerships	225	224
Repeal anti-churning rules of section 197	-2,583	-2,822
Repeal special estimated tax payment provision for certain insurance companies	---	---
Repeal the telephone excise tax	-2,177	-2,052
Increase the standard mileage rate for automobile use by volunteers	-428	-476
Consolidate contribution limitations for charitable deductions and extend the carryforward period for excess charitable contribution deduction amounts	**N/A**	**-5,990**
Exclude from gross income subsidies from public utilities for purchase of water runoff management	**N/A**	**---**
Provide relief for certain accidental dual citizens	**N/A**	**-403**
Simplify the Tax System Subtotal		**-11,773**
User Fee		
Reform inland waterways funding	1,100	1,130
Other Initiatives		
Allow offset of Federal income tax refunds to collect delinquent state income taxes for out-of-state residents	---	---
Authorize the limited sharing of business tax return information to improve the accuracy of important measures of the economy	---	---
Eliminate certain reviews conducted by the U.S. Treasury Inspector General for Tax Administration	---	---
Modify indexing to prevent deflationary adjustments	---	--
Impose a 14-percent onetime tax on previously untaxed foreign income	**N/A**	**268,129**
FY 2015 Budget Proposals Total		**1,544,818**

Adjustments to the Balanced Budget and Emergency Deficit Control Act ("BBEDCA") Baseline

The President's Budget uses the Balanced Budget and Emergency Deficit Control Act baseline—generally a current law baseline—but with a few exceptions. The Budget uses an adjusted baseline that permanently continues three temporary tax provisions scheduled to expire at the end of 2017: expansions to the Child Tax Credit, the Earned Income Tax Credit, and the American Opportunity Tax Credit. The baseline figure is important because it is the starting point when determining whether a tax proposal increases or reduces the deficit. By assuming these temporary provisions are permanent, actually making them permanent would not affect the baseline either way.

Reform the U.S. International Tax System

The international proposals are part of a broader business tax reform package in the President's budget; however, the biggest changes from prior budget proposals appear to be sweeping changes to the international tax system. In addition, many of the President's international proposals head in a different direction than the policies supported by House Ways & Means Chairman Ryan and Senate Finance Chairman Hatch. Most notably, Mr. Ryan and Mr. Hatch both support a territorial tax regime. In contrast, the President would impose a minimum tax on foreign earnings—as they are earned. The President also includes strong base erosion provisions for interest expense; an idea that has been paired more with a territorial tax system than one leaning toward a true worldwide system with no deferral. These types of differences will make finding common ground with the President on business tax reform an even more challenging task.

There are several key takeaways from this section:

- Impose a 19-Percent Minimum Tax on Foreign Income. This new proposal drives many of the other international proposals. The Administration identifies four reasons to justify the tax: (1) the opportunity to defer U.S. tax on CFC earnings; (2) the ability to currently deduct expenses attributable to deferred earnings; (3) the high U.S. tax rate on repatriated income; and (4) the ability to cross-credit foreign tax credits. The rate is 19 percent less 85 percent of the per-country foreign effective tax rate (the residual minimum tax rate) over a 60-month period.
  - For purposes of this calculation,
    - foreign taxes paid are creditable taxes;
    - the country is based on "tax residence under foreign law" and earnings of a CFC allocable to multiple countries will be assigned to the highest tax county (stateless income would be subject to the full 19 percent tax);
    - the minimum tax for a particular country would be computed by multiplying the residual minimum tax rate by the minimum tax base for that country; and
    - the minimum tax base would be reduced by an allowance for corporate equity (i.e., a return on capital).
  - Ultimately, the tax would:
    - supplement existing Subpart F regime with a per-country minimum tax on the foreign earnings of entities taxed as domestic C corporations and their CFCs;
    - apply to U.S. corporations that are U.S. shareholders of a CFC or that have foreign earnings from a branch or from the performance of services abroad;
    - apply to current foreign earnings, regardless of whether they are repatriated to the United States, which would include disregarded payments deductible elsewhere, and would exclude dividends from related parties. Mechanisms would be in place to restrict the use of hybrid arrangements to circumvent the minimum tax;
    - currently tax foreign earnings, or not at all;

    - preclude the imposition of other U.S. taxes on the sale of stock by a U.S. shareholder to the extent the gain represents undistributed earnings that have already been subject to the 19 percent minimum tax or the 14 percent transition tax. Conversely, unrealized appreciation not yet subject to the tax would trigger the tax;
    - allow interest expense allocated to foreign earnings subject to the minimum tax to be deductible at the minimum tax rate applicable to those earnings; and
    - repeal certain rules regarding CFC investments in U.S. property, i.e., section 956, and previously taxed earnings.

- Impose a 14-Percent Onetime Tax on Previously Untaxed Foreign Income. This is a new proposal that will assist in the transition from the current international tax system to the 19 percent minimum tax system. It is a onetime 14 percent tax on previously untaxed accumulated E&P. A foreign tax credit is allowed for the amount of foreign taxes associated with those earnings multiplied by the ratio of 14 percent to the maximum U.S. corporate tax rate, i.e., 14 percent/35 percent. Earnings subject to the 14 percent tax could then be repatriated without any further U.S. tax. Proceeds from this proposal would be applied to highway funding.
- Restrict Deductions for Excessive Interest of Members of Financial Reporting Groups. Although this provision appeared in prior budget proposals, the FY 16 Green Book proposes a new feature that arises from the interplay of the 19 percent minimum tax: the U.S. subgroup's interest expense that remains deductible after the application of this proposal is then subject to the limitations on deductibility that are part of the minimum tax proposal.
- Repeal Delay in the Implementation of Worldwide Interest Allocation. Under the minimum tax rules, a per-country minimum tax on foreign income is computed. This requires allocating and apportioning interest expense among foreign-source gross income according to the concepts of worldwide interest allocation, i.e., as if all members of the worldwide affiliated groups comprised a single corporation. Worldwide interest allocation was first enacted in the Jobs Act of 2004, but its effective date keeps getting pushed back because it is regularly used as a revenue raiser. Through a series of delays, its effective date now is scheduled for taxable years beginning after December 31, 2020.
- Extend the Exception Under Subpart F for Active Financing Income. This is a new proposal to make the active financing exception, which is currently an extender, permanent. The FY 16 Green Book proposes to make it permanent in recognition that insurance, banking, financing, and similar businesses are active businesses that generate income that otherwise would be treated as passive income subject to Subpart F. Also, the 19 percent minimum tax would ensure that these businesses cannot reduce effective tax rates below that amount.
- Extend the Look-Through Treatment of Payments Between Related Controlled Foreign Corporations (CFCs). This is a new proposal. Similar to the active financing exception, the Administration reasons that such income will be subject to the 19 percent minimum tax; taxpayers could not use the look-through rules to shift income into entities with effective rates below 19 percent.
- Close Loopholes Under Subpart F. Although this provision appeared in prior budget proposals, the FY 16 Green Book proposes a new feature that changes the CFC attribution rules so that more foreign ownership of stock is attributed to a U.S. shareholder

for purposes of determining whether the foreign corporation is a CFC. The proposal also eliminates the "30-day rule" for purposes of requirements to include Subpart F income in gross income.

- Limit the Ability of Domestic Entities to Expatriate. Although this provision appeared in prior budget proposals, the FY 16 Green Book proposes the following new features: (a) a new, special rule that, regardless of shareholder continuity, an inversion transaction occurs if immediately before the acquisition the FMV of the stock of the domestic entity is greater than the FMV of the stock of the foreign acquirer, the foreign acquirer is primarily managed and controlled in the United States, and the foreign acquirer has no substantial business activities in the country where the acquirer is created or organized; (b) a new expansion of I.R.C. § 7874 so an inversion transaction could occur if there is a direct or indirect acquisition of assets; and (c) the IRS is granted authority to share tax return information with federal agencies for the purpose of administering anti-inversion rules. This information would be subject to I.R.C. § 6103 disclosure rules. Notably, the FY 16 Green Book proposals would be effective for transactions completed after December 31, 2015, which differs from the effective date of Treasury Notice 2014-52; the broad anti-inversions notice was issued on September 22, 2014, and forthcoming guidance is expected to be retroactively effective on that date. The Administration may believe that the budget proposals fall sufficiently outside the scope of the issues identified in the Notice that they cannot be applied retroactive to the September date.

In addition, several provisions included in previous budget proposals were included again in the FY 2016 Green Book:

- Provide Tax Incentives for Locating Jobs and Business Activity in the United States and Remove Tax Deductions for Shipping Jobs Overseas
- Limit Shifting of Income Through Intangible Property Transfers
- Disallow the Deduction for Excess Non-Taxed Reinsurance Premiums Paid to Affiliates
- Modify Tax Rules for Dual-Capacity Taxpayers
- Tax Gain From the Sale of a Partnership Interest on Look-Through Basis
- Modify Sections 338(h)(16) and 902 to Limit Credits When Non-Double Taxation Exists
- Restrict the Use of Hybrid Arrangements That Create Stateless Income

Simplification and Tax Relief for Small Business

The Green Book's small business proposals are largely the same as they have been in years past. However, the Administration included in its Green Book a significant proposal relating to cash accounting:

- **Expand Simplified Accounting for Small Business and Establish a Uniform Definition of Small Business for Accounting Methods.** Current law contains various accounting requirements based on a taxpayer's average annual gross receipts, the organization of the taxpayer, and business activity of the taxpayer. The Green Book proposes to instead create a uniform small business threshold at $25 million in average annual gross receipts, indexed for inflation. Satisfaction of the gross receipts test would allow an entity to elect use of the cash method of accounting in lieu of an accrual method (regardless of whether the entity holds inventories). These rules would further allow personal service corporations that are not C corporations or partnerships with a C corporation partner and all farm corporations to use the special cash method.

The Administration's proposal is a significant directional shift on this issue, as both the Camp and the Baucus tax reform proposals contained provision to limit the use of cash accounting. The Camp and Baucus tax reform proposals on cash accounting faced significant pushback from Members of Congress and the stakeholder community.

In addition, the following provision included in previous budget proposals was included again in the FY 2016 Green Book:

- Expand and Permanently Extend Increased Expensing for Small Business
- Eliminate Capital Gains Taxation on Investments in Small Business Stock
- Increase the Limitations for Deductible New Business Expenditures and Consolidate Provisions for Start-Up and Organizational Expenditures
- Expand and Simplify the Tax Credit Provided to Qualified Small Employers for Non-Elective Contributions to Employee Health Insurance

Incentives for Manufacturing, Research, and Clean Energy

There are several key takeaways from this section:

- **Revamped Research Credit.** In last year's Green Book, the Administration proposed to make the research and development (R&D) credit permanent and raise the rate of the alternative simplified research credit from 14 percent to 17 percent. This year's Green Book goes much farther in reforming the credit. In addition to making the credit permanent, after 2015 the Administration would repeal the traditional method of calculating the credit, increase the alternative simplified research credit from 14 percent to 18 percent, repeal the reduced rate for businesses without qualified research in the previous three years, and allow taxpayers to use the credit to offset AMT liability, among other changes.
- **Investment Tax Credit.** This is a new proposal. Notably, the Administration has proposed to make permanent the investment tax credit under section 48 of the Tax Code. The credit, which applies to solar, geothermal, microturbine, combined heat and power, and fuel cell property, is generally scheduled to expire at the end of 2016 (although solar has a permanent 10 percent credit). Last year's Green Book proposed to make solar eligible for the production tax credit under section 45 but was silent as to the other technologies. With the solar industry and others pushing for relief from the looming expiration of these incentives, the Administration has apparently taken notice.
- **Carbon Capture and Sequestration.** This is a new proposal. In addition, the Green Book contains two new incentives for the deployment of carbon capture technologies that store and, in some cases, reuse carbon dioxide emitted from electricity generating facilities. Incentives for carbon capture and sequestration technologies also aligns with the Administration's environmental agenda by helping coal- and natural gas-fired plants reduce their emissions.

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In addition, several provisions included in previous budget proposals were included again in the FY 2016 Green Book:

- Extend and Modify Certain Employment Tax Credits, Including Incentives for Hiring Veterans
- Modify and Permanently Extend the Renewable Electricity Production Tax Credit (along with the new proposal to permanently extend the Investment Tax Credit described above)
- Modify and Permanently Extend the Deduction for Energy-Efficient Commercial Building Property
- Provide Additional Tax Credits for Investments in Qualified Property Used in a Qualifying Advanced Energy Manufacturing Project
- Provide New Manufacturing Communities Tax Credit
- Extend the Tax Credit for Second-Generation Biofuel Production

Incentives to Promote Regional Growth

There are a couple takeaways from the Green Book's incentives to promote regional growth:

- **Reform and Expand the Low-Income Housing Tax Credit ("LIHTC").** The 2016 Green Book would reform and expand the LIHTC, which is an incentive for the acquisition and development or rehabilitation of rental housing occupied by tenants having incomes below specified levels. Similar to previous budgets, the 2016 proposal would: (1) allow states to convert private activity bond volume cap into LIHTCs that the state can allocate; (2) encourage mixed-income occupancy by allowing LIHTC-supported projects to elect a criterion employing a restriction on average income; (3) change formulas for 70 present value and 30 percent present value LIHTCs; (4) add preservation of federally assisted affordable housing to allocation criteria; and (5) implement a requirement that LIHTC-supported housing protects victims of domestic abuse. However, the Green Book does not include last year's proposal to make LIHTC beneficial to Real Estate Investment Trusts ("REITs"); instead, the Green Book proposes to provide HUD with the authority to effectively remove the current limit under which the aggregate population in census tracts designated as qualified census tracts ("QCTs") cannot exceed 20 percent of the metropolitan area's population.

In addition, the following provision included in previous budget proposals was included again in the FY 2016 Green Book:

- Modify and Permanently Extend the New Markets Tax Credit ("NMTC")

Incentives for Investment in Infrastructure

There are several key takeaways from this section: The Green Book contains several new proposals on investment in infrastructure, some expanding and some narrowing the availability of incentives. Key proposals include:

- **Provide a New Category of Qualified Private Activity Bonds for Infrastructure Projects Referred to as "Qualified Public Infrastructure Bonds."** The Green Book proposes to create a new category of tax-exempt qualified private activity bonds called "Qualified Public Infrastructure Bonds" ("QPIBs") that would be eligible to finance the following specific categories of infrastructure projects that are permitted to be financed with exempt facility bonds under current law: (1) airports; (2) docks and wharves; (3) mass commuting facilities; (4) facilities for the furnishing of water; (5) sewage facilities; (6) solid waste disposal facilities; and (7) qualified highway or surface freight transfer facilities. To ensure the public nature of financed infrastructure, the proposal would impose two core eligibility requirements for QPIBs: a governmental ownership requirement and a public use requirement. The proposal would make the bond volume cap requirement inapplicable to QPIBs.

- **Modify Qualified Private Activity Bonds for Public Educational Facilities.** The Green Book proposes to modify certain rules that have impeded use of tax-exempt bond financing for qualified public education facilities. In particular, the proposal would eliminate the private corporation ownership requirement and instead would allow any private person either to own the public school facilities or to operate those school facilities. In addition, the proposal would remove the requirement to transfer the school facilities to a public agency at the end of the term of the bonds for no additional consideration. Finally, the proposal would remove the separate volume cap and instead would include these facilities under the unified annual State bond volume cap for private activity bonds.
- **Modify Treatment of Banks Investing in Tax-Exempt Bonds.** For tax-exempt bonds issued in 2009 and 2010, a temporary rule allowed financial institutions to deduct up to 80 percent of interest expense allocable to any tax-exempt bond, regardless of whether the bond was a qualified tax-exempt obligation. However, the bonds that benefited from this temporary rule could not exceed two percent of the taxpayer financial institution's total assets. The rules also modified the definition of qualified small issuer to allow the annual issuance of up to $30 million in these bonds. The Green Book proposes to adopt these temporary rules on a permanent basis going forward.
- **Repeal Tax-Exempt Bond Financing of Professional Sports Facilities.** The Green Book proposes to eliminate tax-exempt bond financing of professional sports facilities, instead requiring such facilities to issue taxable bonds if more than 10 percent of the facility is used for private business use.
- **Modify Tax-Exempt Bonds for Indian Tribal Governments.** In an effort to increase parity, fairness, and flexibility, the Administration proposes to repeal the existing essential government function standard and instead allow Indian tribal government to issue tax-exempt private activity bonds for the same types of projects and activities as are allowed for State and local governments under a national bond volume cap.

In addition, several provisions included in previous budget proposals were included again in the FY 2016 Green Book:

- Provide America Fast Forward Bonds and Expand Eligible Uses
- Allow Current Refundings of State and Local Governmental Bonds
- Repeal the $150 Million Non-Hospital Bond Limitation on Qualified Section 501(c)(3) Bonds
- Increase National Limitation Amount for Qualified Highway or Surface Freight Transfer Facility Bonds

- Allow More Flexible Research Arrangements for Purposes of Private Business Use Limits
- Exempt Foreign Pension Funds From the Application of the Foreign Investment in Real Property Tax Act ("FIRPTA")

Eliminate Fossil Fuel Tax Preferences

Eliminating tax preferences for fossil fuels like oil, natural gas, and coal has long been a staple of the Administration's budget request. Of course, the fact that the proposals keep appearing demonstrates that Congress has not eliminated any of the provisions. However, repealing these provisions is certain to be a Democratic priority in tax reform.

There are several key takeaways from this section:

- **Master Limited Partnerships Make Their Debut.** For the first time, the Administration has included Master Limited Partnerships (MLPs) on the list of fossil-fuel tax preferences they would repeal. Generally speaking, an MLP is a business structure that is taxed like a partnership (i.e., it is not subject to entity-level taxation) but whose ownership interests are traded like stock on a public exchange. MLPs are seen as a way for eligible entities to bring down their cost of capital and have access to a broader pool of investors. The Administration has proposed to treat such publicly traded partnerships for fossil fuels as C corporations—essentially eliminating the ability of fossil fuel entities to avoid corporate taxation through the use of MLPs.
- **Other Than That, More of the Same.** Aside from the MLP proposal, this section of the Green Book includes the same provisions as last year's Green Book.

The following provisions included in previous budget proposals were included again in the FY 2016 Green Book:

- Repeal enhanced oil recovery credit
- Repeal credit for oil and natural gas produced from marginal wells
- Repeal expensing of intangible drilling costs
- Repeal deduction for tertiary injectants
- Repeal exception to passive loss limitation for working interests in oil and natural gas properties
- Repeal percentage depletion for oil and natural gas wells
- Repeal domestic manufacturing deduction for oil and natural gas production
- Increase geological and geophysical amortization period for independent producers to seven years
- Repeal expensing of exploration and development costs
- Repeal percentage depletion for hard mineral fossil fuels
- Repeal capital gains treatment for royalties
- Repeal domestic manufacturing deduction for the production of coal and other hard mineral fossil fuels

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Reform the Treatment of Financial and Insurance Industry Products

Several of these provisions remain unchanged from last year's budget, but the Administration has also included a new proposal for the life insurance industry:

- **Conform Net Operating Loss Rules of Life Insurance Companies to Those of Other Corporations.** Current law permits life insurance companies to carry forward and carry back a loss from operations ("LO"), as opposed to net operating losses used by most businesses. Life insurance companies may carry back an LO up to three taxable years preceding a loss year and carry forward an LO up to 15 taxable years following a loss year. By contrast, NOLs may be carried back up to two taxable years preceding a loss year and carried forward up to 20 years. The Administration proposes to harmonize the treatment of NOLs and LOs by requiring LOs to be carried back up to two taxable years prior to the loss and carried forward 20 taxable years following a loss year.

In addition, several provisions included in previous budget proposals were included again in the FY 2016 Green Book:

- Require That Derivative Contracts Be Marked to Market With Resulting Gain or Loss Treated as Ordinary
- Modify Rules That Apply to Sales of Life Insurance Contracts
- Modify Proration Rules for Life Insurance Company General and Separate Accounts
- Expand Pro Rata Interest Expense Disallowance for Corporate-Owned Life Insurance

Other Revenue Changes and Loophole Closers

There are several key takeaways from this section:

- **Modify Like-Kind Exchange Rules for Real Property and Collectibles.** Last year's Green Book proposed capping the amount of deferral from a like-kind exchange of real property to $1 million per taxpayer per taxable year. The Administration still proposes to cap real property like-kind exchanges at this level and also proposes to make art and collectibles ineligible for like-kind exchanges. Significantly, the Administration decided not to impose caps or modify the rules relating to personal property like-kind exchanges, in contrast to recent proposals from former House Ways and Means Chairman Dave Camp (R-MI) and Senate Finance Committee Max Baucus (D-MT).
- **Tax Corporate Ownership Distributions as Dividends.** The Administration is proposing several new methods of tackling avoidance of dividend treatment for distributions of property to shareholders. In particular, the Administration is concerned about the improper elimination of a corporation's earnings and profits and the distribution of dividends in exchange for "hook stock" from corporate shareholders. The Administration proposes four changes to address these issues: (1) amending section 312(a)(3) to prevent the elimination of earnings and profits through distributions of certain stock with basis attributable to dividend equivalent redemptions; (2) preventing the use of leveraged distributions (i.e., funds provided from companies with high earnings and profit to companies with no or little earnings and profit through a loan with a view to distribute the funds as a dividend); (3) treating purchases of "hook stock" by a subsidiary for property as a deemed distribution; and (4) repealing the gain limitation under section 356 for dividends received in reorganization exchanges.

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- **Repeal Federal Insurance Contributions Act (FICA) Tip Credit.** The Administration believes that the current FICA tip credit is inefficient and inequitable and unduly encourages employers to provide income in the form of tips instead of wages. Under current law, employers are responsible for withholding employee income tax and the employee's share of FICA taxes, as well as the employer's share of FICA tax, but the employer can receive a credit for their share of FICA taxes in certain circumstances. The proposal would repeal the entire income tax credit for FICA taxes an employer pays on tips.

In addition, several provisions included in previous budget proposals were included again in the FY 2016 Green Book:

- Repeal Last-In, First-Out (LIFO) Method of Accounting for Inventories
- Repeal Lower-of-Cost-or-Market (LCM) Inventory Accounting Method
- Modify Depreciation Rules for Purchases of General Aviation Passenger Aircraft
- Expand the Definition of Substantial Built-In Loss for Purposes of Partnership Loss Transfers
- Extend Partnership Basis Limitation Rules to Nondeductible Expenditures
- Limit the Importation of Losses under Related Party Loss Limitation Rules
- Deny Deduction for Punitive Damages
- Conform Corporate Ownership Standards
- Repeal the Excise Tax Credit for Distilled Spirits With Flavor and Wine Additives

Tax Reform for Families and Individuals

Consistent with the President's State of the Union, the Green Book focuses extensively on strengthening and simplifying tax incentives for middle-class families and individuals. In particular, there is a significant focus on incentives for savings and retirement, with several new provisions.

There are several key takeaways from this section:

- **Reform Child Care Tax Incentives.** Current law permits expenses related to the care for children under the age of 13 and disabled dependents to claim a nonrefundable tax credit. In addition, employers may establish flexible spending accounts for child and dependent care that provide tax-favorable treatment for funds placed within those accounts. The Green Book proposes to repeal flexible spending accounts for dependent care and increase the child and dependent care credit. Taxpayers could claim up to 50 percent of expenses up to $6,000 ($12,000 for two young children). The child credit rate would phase down at a rate of one percentage point for every $2,000 of AGI over $120,000 until the rate reaches 20 percent for taxpayers with incomes above $178,000. Limits and income would be indexed to inflation after 2016.
- **Simplify and Better Target Tax Benefits for Education.** Under current law, numerous programs and tax beneficial programs exist to help families pay for higher education. The Green Book proposes:

- to make permanent and expand the American Opportunity Tax Credit ("AOTC"), as a permanent replacement for the Hope Scholarship Credit, the Lifetime Learning Credit, and the student loan interest deduction. Under the AOTC, taxpayers may claim an AOTC for 100 percent of the first $2,000 plus 25 percent of the next $2,000 of qualified tuition and related expenses per student. The proposal would expand AOTC for the first five years of higher education and for five tax years; expand eligibility to include less than half-time students; and simplify and increase the refundable portion of the credit;
- to make Pell Grants excludable from income;
- to modify reporting of tuition expenses and scholarships on Form 1098-T to amounts paid, not billed;
- to make several changes to the tax rules governing student loans: (1) repeal deduction for student loan interest; (2) conform tax treatment of loan amounts and scholarships paid by the National Health Service Corps and the Armed Forces Health Professions; and (3) allow for disclosure of identifying information to contact late-stage delinquent borrowers to inform them about options to avoid default;
- to repeal Coverdell education savings accounts ("ESAs") and reduce the Federal tax benefits allowed to qualified tuition programs, also known as section 529 ESAs. No new contributions would be allowed to Coverdell ESAs. Qualifying distributions of earnings on contributions to Coverdell and section 529 ESAs made prior to the date of enactment would continue to be excludable from gross income. Distributions of earnings on contributions to section 529 ESAs made after the date of enactment would no longer be excludable from gross income but would still benefit from being includable only in the gross income of the student beneficiary, not the gross income of the account holder.

- **Provide for Automatic Enrollment in IRAs, Including a Small Employer Tax Credit, Increase the Tax Credit for Small Employer Plan Start-Up Costs, and Provide an Additional Tax Credit for Small Employer Plans Newly Offering Auto-Enrollment.** Consistent with previous years, the Green Book includes a provision requiring employers that have more than 10 employees to offer an automatic Individual Retirement Accounts or Annuities ("IRAs") option to employees, under which regular contributions would be made to an IRA on a payroll-deduction basis. This proposal continues the growing bipartisan, bicameral, Administration-Congressional alignment in increasing access to workplace-based retirement security plans, particularly for small business employees.
- **Expand Penalty-Free Withdrawals for Long-Term Unemployed.** The Green Book contains a new proposal this year to expand the exception from the 10 percent withdrawal penalty to include distributions to long-term unemployed individuals (unemployed for more than 26 weeks) from an IRA, 401(k), or other tax-qualified defined contribution plan.
- **Require Retirement Plans to Allow Long-Term Part-Time Workers to Participate.** The Green Book also contains another significant new proposal, which would require employers to expand eligibility to long-term, part-time employees who work at least 500 hours per year with the employer for at least three consecutive years. Such employees would be allowed to contribute, but employers would not be required to make employer contributions, including matching contributions.

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- **Facilitate Annuity Portability.** Another new retirement security proposal in this year's Green Book is a proposal that would permit a plan to allow participants to take a distribution of a lifetime income investment through a direct rollover to an IRA or other retirement plan if the annuity investment is no longer authorized to be held under the plan, without regard to whether another event permitting a distribution (such as a severance from employment) has occurred. The distribution would not be subject to the 10-percent additional tax.
- **Provide a Second-Earner Tax Credit.** Currently, married persons filing jointly are subjected to higher marginal tax rates on the lower earner's income based on the couple's joint income. The Green Book proposes a nonrefundable tax credit of up to $500 based on a percentage of the lower earner's income, up to $10,000, to two-earner married couples who file jointly. The credit would be fully phased out at AGI over $210,000.

In addition, several provisions included in previous budget proposals were included again in the FY 2016 Green Book:

- Simplify Minimum Required Distribution (MRD) Rules
- Allow All Inherited Plan and IRA Balances to Be Rolled Over Within 60 Days
- Expand the Earned Income Tax Credit (EITC) for Workers Without Qualifying Children
- Simplify the Rules for Claiming the Earned Income Tax Credit (EITC) for Workers Without Qualifying Children
- Extend Exclusion From Income For Cancellation of Certain Home Mortgage Debt

Reforms to Capital Gains Taxation, Upper-Income Tax Benefits, and the Taxation of Financial Institutions

There are several key takeaways from this section:

- **Reform the Taxation of Capital Income.** Under the President's proposal, long-term capital gains and qualified dividend rates would be increased from 20 percent to 24.2 percent, and the 3.8 percent net investment income tax would continue to apply. The maximum total capital gains and dividend tax rate, including net investment income tax, would thus rise to 28 percent.
- **Impose a Financial Fee.** The financial crisis responsibility fee (i.e., the "bank" tax) has been significantly expanded to include foreign banks and "nonbanks," including insurance companies, savings and loan holding companies, exchanges, asset managers, specialty finance corporations, and financial captives with more than $50 billion in assets. A fee of 7 basis points would apply to "covered liabilities," which would be calculated as assets less equity for banks and on the basis of audited financials for nonbanks.

In addition, two provisions included in previous budget proposals were included again in the FY 2016 Green Book:

- Reduce the Value of Certain Tax Expenditures (reducing the value of several tax expenditures, such as state and local bond interest, to 28 percent)

- Implement the Buffett Rule by Imposing a New "Fair Share Tax" (requiring high-income taxpayers to pay a tax equal to 30 percent of adjusted gross income less a credit for charitable contributions)

Loophole Closers

While other parts of the Green Book focus on increasing incentives for families and individuals, this section focuses on providing revenue offsets targeting Wall Street and incentives that may be perceived to be differentially beneficial to higher-income families and individuals. For instances, with respect to the retirement security provisions, the Administration appears to be "right-sizing" the magnitude of tax-preferred retirement savings.

There are several key takeaways from this section:

- **Limit the Total Accrual of Tax-Favored Retirement Benefits.** Similar to last year, the Green Book proposes a limit on an individual's total balance across tax-preferred savings accounts to the amount necessary to provide the maximum annuity permitted for a tax-qualified defined benefit plan under current law (currently, approximately $3.4 million).
- **Conform Self-Employment Contributions Act ("SECA") Taxes for Professional Service Businesses.** Following on last year, this year's Green Book contains a proposal to conform SECA taxes imposed on owners of professional services businesses organized as pass-through entities. There have been allegations in recent years that owners of such businesses may be characterizing a higher proportion of distribution as non-wage distributions, on which SECA taxes are not imposed. The issue came to light several years back, with high-profile examples of Newt Gingrich and John Edwards. Under the proposal, S corporation shareholders who materially participate in the business would be subject to SECA taxes on their distributive shares of income; those that do not materially participate would be subject to SECA taxes only on an amount of income equal to reasonable compensation. "Professional service businesses" would be defined as pass-through entities in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, and consulting, as well as athletics, investment advice or management, brokerage services, and lobbying.
- **Limit Roth Conversions to Pre-Tax Dollars.** New in this year's Green Book is a proposal aimed at limiting the practice of circumventing income limitations and indirectly making contributions to a Roth IRA by making nondeductible contributions to a traditional IRA and then converting the traditional IRA to a Roth IRA. The proposal would permit amounts held in a traditional IRA to be converted to a Roth IRA (or rolled over from a traditional IRA to a Roth IRA) only to the extent a distribution of those amounts would be includable in income if they were not rolled over. Thus, after-tax amounts (those attributable to basis) held in a traditional IRA could not be converted to Roth amounts.
- **Repeal Exclusion of Net Unrealized Appreciation in Employer Securities.** Under current law, the exclusion of net unrealized appreciation in employer securities from gross income in the year of a distribution is a benefit that creates an additional incentive for employees to invest in employer stock through tax-qualified retirement plans. The Green Book includes a new proposal this year aimed at decreasing concentration risk by repealing the exclusion of net unrealized appreciation in employer stock in the year of a distribution for participants in tax-qualified retirement plans who have not yet attained age 50 as of December 31, 2015.

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- **Disallow the Deduction for Charitable Contributions That Are a Prerequisite for Purchasing Tickets to College Sporting Events.** Some colleges and universities give exclusive or priority purchasing privileges for sports ticket sales to donors, with the priority often dependent on the size of the gift. The Green Book contains a new proposal this year that would deny the 80 percent deduction for contributions that entitle donors to a right to purchase sporting event tickets.

In addition, several provisions included in previous budget proposals were included again in the FY 2016 Green Book:

- Require Current Inclusion in Income of Accrued Market Discount and Limit the Accrual Amount for Distressed Debt
- Require That the Cost Basis of Stock That Is a Covered Security Must Be Determined Using an Average Cost Basis Method
- Tax Carried (Profits) Interests as Ordinary Income
- Require Non-Spouse Beneficiaries of Deceased IRA Owners and Retirement Plan Participants to Take Inherited Distributions Over No More Than Five Years
- Eliminate Deduction for Dividends on Stock of Publicly Traded Corporations Held in Employee Stock Ownership Plans ("ESOPs")

Incentives for Job Creation, Clean Energy, and Manufacturing

The provisions in this section of the FY 2016 Green Book were included in previous budget proposals:

- Designate Promise Zones
- Provide a Tax Credit for the Production of Advanced Technology Vehicles
- Provide a Tax Credit for Medium- and Heavy-Duty Alternative-Fuel Commercial Vehicles
- Modify and Extend the Tax Credit for the Construction of Energy-Efficient New Homes
- Reduce Excise Taxes on Liquefied Natural Gas (LNG) to Bring Into Parity With Diesel
- Enhance and Modify the Conservation Easement Deduction (with modifications and a new pilot nonrefundable credit for conservation easement contributions as an alternative to the deduction)

Modify Estate and Gift Tax Provisions

The provisions in this section of the FY 2016 Green Book were included in previous budget proposals:

- Restore the Estate, Gift, and Generation-Skipping Transfer (GST) Tax Parameters in Effect in 2009
- Require Consistency in Value for Transfer and Income Tax Purposes
- Modify Transfer Tax Rules for Grantor-Retained Annuity Trusts (GRATS) and Other Grantor Trusts
- Limit Duration of Generation-Skipping Transfer (GST) Tax Exemption

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- Extend the Lien on Estate Tax Deferrals Where Estate Consists Largely of Interest in Closely Held Business
- Modify Generation-Skipping Transfer (GST) Tax Treatment of Health and Education Exclusion Trusts (HEETS)
- Simplify Gift Tax Exclusion for Annual Gifts
- Expand Applicability of Definition of Executor

Other Revenue Raisers

This section is nearly the same as last year's Green Book, with the exception of an expanded proposal relating to the Federal Unemployment Tax Act (FUTA)

- **Modified FUTA Provision.** Last year, the Administration proposed to provide short-term tax relief to employers and expand the FUTA wage base. In this year's Green Book, the Administration would raise the FUTA wage base to $40,000 per worker paid annually, index the wage base to wage growth, and reduce the net federal unemployment insurance tax, among other changes.

In addition, several provisions included in previous budget proposals were included again in the FY 2016 Green Book:

- Increase the Modify Oil Spill Liability Trust Fund Financing
- Reinstate Superfund Taxes
- Increase Tobacco Taxes and Index for Inflation
- Make Unemployment Insurance Surtax Permanent

Reduce the Tax Gap and Make Reforms

The budget includes several proposals to enhance tax administration and voluntary compliance. Many of these proposals are intended to decrease the size of the "tax gap," defined as the difference between taxes legally owned and taxes timely paid. The IRS estimates the annual tax gap is approximately $450 billion per year. Most of these proposals are repeats from prior years; however, there are several significant new items, as described below.

Expand Information Reporting

There are several key takeaways from this section:

- **Provide an Exception to the Limitation on Disclosing Tax Return Information to Expand TIN Matching Beyond Forms Where Payments Are Subject to Backup Withholding.** This new proposal would allow the IRS to tell any party required to verify the tax identification number of another person, i.e., a social security number for purposes of issuing a Form 1099, whether the party's information matches what the IRS has on file. This disclosure currently is limited to reportable payments subject to backup withholding under IRC section 3406. "TIN matching" helps employers file accurate information returns and facilitates IRS identification of individuals not reporting all their income.

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- **Provide for Reciprocal Reporting of Information in Connection With the Implementation of Foreign Account Tax Compliance Act.** This repeat proposal would require U.S. financial institutions to report to the IRS the same types of information as required of foreign financial institutions under FATCA. A new addition to the proposal this year would require the U.S. institutions to provide a copy of the report to the account holder, similar to the way Forms 1099 are treated.
- **Improve Mortgage Interest Deduction Reporting.** This new proposal would expand the types of information mortgage lenders must include on the year-end Form 1098, including the principal balance and the address of the property secured by the loan. A similar proposal has been offered in Congress as a revenue offset; the information is intended to improve compliance by making sure interest is not being deducted on mortgage amounts over the statutory limit.
- **Require Forms W-2 Reporting for Employer Contributions to Defined Contribution Plans.** The new proposal would require employers to report on Form W-2 the amounts contributed to an employee's account under a defined benefit plan. This is intended to promote compliance with plan contribution limits and make the account holder more aware of the status of their retirement savings.

Improve Compliance by Businesses

One key takeaway from this section:

- **Provide Authority to Readily Share Information About Beneficial Ownership Information of U.S. Companies With Law Enforcement.** This new proposal requires all entities formed in a U.S. state or U.S. territory to have an employer identification number to provide a universal identifier for the purpose of ensuring responsible party information. It would also allow the Secretary of the Treasury to share this information with law enforcement without a court order to combat money laundering, terrorist financing, and other financial crimes. Further, it would allow the Secretary to impose AML/CFT obligations on persons in the business of forming companies. States would be encouraged to adopt forthcoming standards to improve oversight and regulation of the incorporation process. The United States is sometimes referred to as a tax shelter because the identity of beneficial owners is not transparent.

Strengthen Tax Administration

One key takeaway from this section:

- **Extend Statute of Limitations for Assessment for Overstated Basis and State Adjustments.** This proposal creates an exception to the normal three-year statute of limitations in cases of basis overstatement or state adjustments. The IRS would have an additional one or two years to make federal tax adjustments corresponding to changes in state tax returns. Further, the proposal would add understatement of gain among the omissions of income triggering a six-year statute of limitations; an overstatement of basis leading to the gain understatement also will be treated as an omission of income.

In addition, several provisions included in previous budget proposals were included again in the FY 2016 Green Book:

- Improve Information Reporting for Certain Businesses and Contractors

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- Increase Certainty With Respect to Worker Classification
- Increase Information Sharing to Administer Excise Taxes
- Impose Liability on Shareholders to Collect Unpaid Income Taxes of Applicable Corporations
- Increase Levy Authority for Payments to Medicare Providers With Delinquent Tax Debt
- Implement a Program Integrity Statutory Cap Adjustment for Tax Administration
- Streamline Audit and Adjustment Procedures for Large Partnerships
- Revise Offer-in-Compromise Application Rules
- Expand IRS Access to Information in the National Directory of New Hires for Tax Administration Purposes
- Make Repeated Willful Failure to File a Tax Return a Felony
- Facilitate Tax Compliance With Local Jurisdictions
- Improve Investigative Disclosure Statute
- Allow the IRS to Absorb Credit and Debit Card Processing Fees for Certain Tax Payments
- Provide the IRS With Greater Flexibility to Address Correctable Errors
- Enhance Electronic Filing of Returns
- Improve the Whistleblower Program
- Index All Civil Tax Penalties for Inflation
- Extend IRS Authority to Require Truncated Social Security Numbers (SSN) on Form W-2
- Combat Tax-Related Identity Theft
- Allow States to Send Notices of Intent to Offset Federal Tax Refunds to Collect State Tax Obligations by Regular First-Class Mail Instead of Certified Mail
- Rationalize Tax Return Filing Due Dates So They Are Staggered
- Increase Oversight and Due Diligence of Paid Tax Return Preparers
- Enhance Administrability of the Appraiser Penalty

Simplify the Tax System

There are several key takeaways from this section:

- **Consolidate Contribution Limitations for Charitable Deductions and Extend the Carryforward Period for Excess Charitable Contribution Deduction Amounts.** Current law limits the amount of charitable contribution deductions a donor may claim to a share of the donor's contribution base. The Green Book proposal, which is new this year, would simplify the current complicated set of rules limiting deductions for charitable contributions. Under the proposal, the contribution base limit would remain at 50 percent for contributions of cash to public charities. For all other contributions, a single deduction limit of 30 percent of the taxpayer's contribution base would apply.

- **Exclude From Gross Income Subsidies From Public Utilities for Purchase of Water Runoff Management.** Another new provision Green Book proposal would exclude from gross income of individuals the value of any subsidy provided by a public utility for the purchase or installation of any water conservation measure or storm water management measure.
- **Provide Relief for Certain Accidental Dual Citizens.** The Green Book also proposes relief for accidental dual citizens, who are individuals who become citizens of both the U.S. and another country at birth, may have had minimal contact with the United States, and may not learn until later in life that they are U.S. citizens. Under this proposal, individuals meeting certain requirements would not be subject to tax as a U.S. citizen and would not be a covered expatriate subject to the mark-to-market exit tax.

In addition, several provisions included in previous budget proposals were included again in the FY 2016 Green Book:

- Modify Adoption Credit to Allow Tribal Determination of Special Needs
- Repeal Non-Qualified Preferred Stock (NQPS) Designation
- Repeal Preferential Dividend Rule for Publicly Traded and Publicly Offered Real Estate Investment Trusts (REITs)
- Reform Excise Tax Based on Investment Income of Private Foundations
- Remove Bonding Requirements for Certain Taxpayers Subject to Federal Excise Taxes on Distilled Spirits, Wine, and Beer
- Simplify Arbitrage Investment Restrictions
- Simplify Single-Family Housing Mortgage Bond Targeting Requirements
- Streamline Private Business Limits on Governmental Bonds
- Repeal Technical Terminations of Partnerships
- Repeal Anti-Churning Rules of Section 197
- Repeal Special Estimated Tax Payment Provision for Certain Insurance Companies
- Repeal the Telephone Excise Tax
- Increase the Standard Mileage Rate for Automobile Use by Volunteers

User Fee

The provision in this section of the FY 2016 Green Book was included in previous budget proposals:

- Reform Inland Waterways Funding

Other Initiatives

The provisions in this section of the FY 2016 Green Book were included in previous budget proposals:

- Allow Offset of Federal Income Tax Refunds to Collect Delinquent State Income Taxes for Out-of-State Residents
- Authorize the Limited Sharing of Business Tax Return Information to Improve the Accuracy of Important Measures of the Economy

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- Eliminate Certain Reviews Conducted by the U.S. Treasury Inspector General for Tax Administration (TIGTA)
- Modify Indexing to Prevent Deflationary Adjustments

Authors:

Mary Burke Baker
mary.baker@klgates.com
+1.202.778.9223

Karishma S. Page
karishma.page@klgates.com
+1.202.778.9128

Ryan J. Severson
ryan.severson@klgates.com
+1.202.778.9251

Andrés Gil
andres.gil@klgates.com
+1.202.778.9226

David A. Walker
dave.walker@klgates.com
+1.202.778.9346

Sarah M. Beason
sarah.beason@klgates.com
+1.202.778.9019