

# The 13th Annual Americas School of Mines Update on US and Canada taxes

Scott McCandless

Director

Washington National Tax

\*connectedthinking

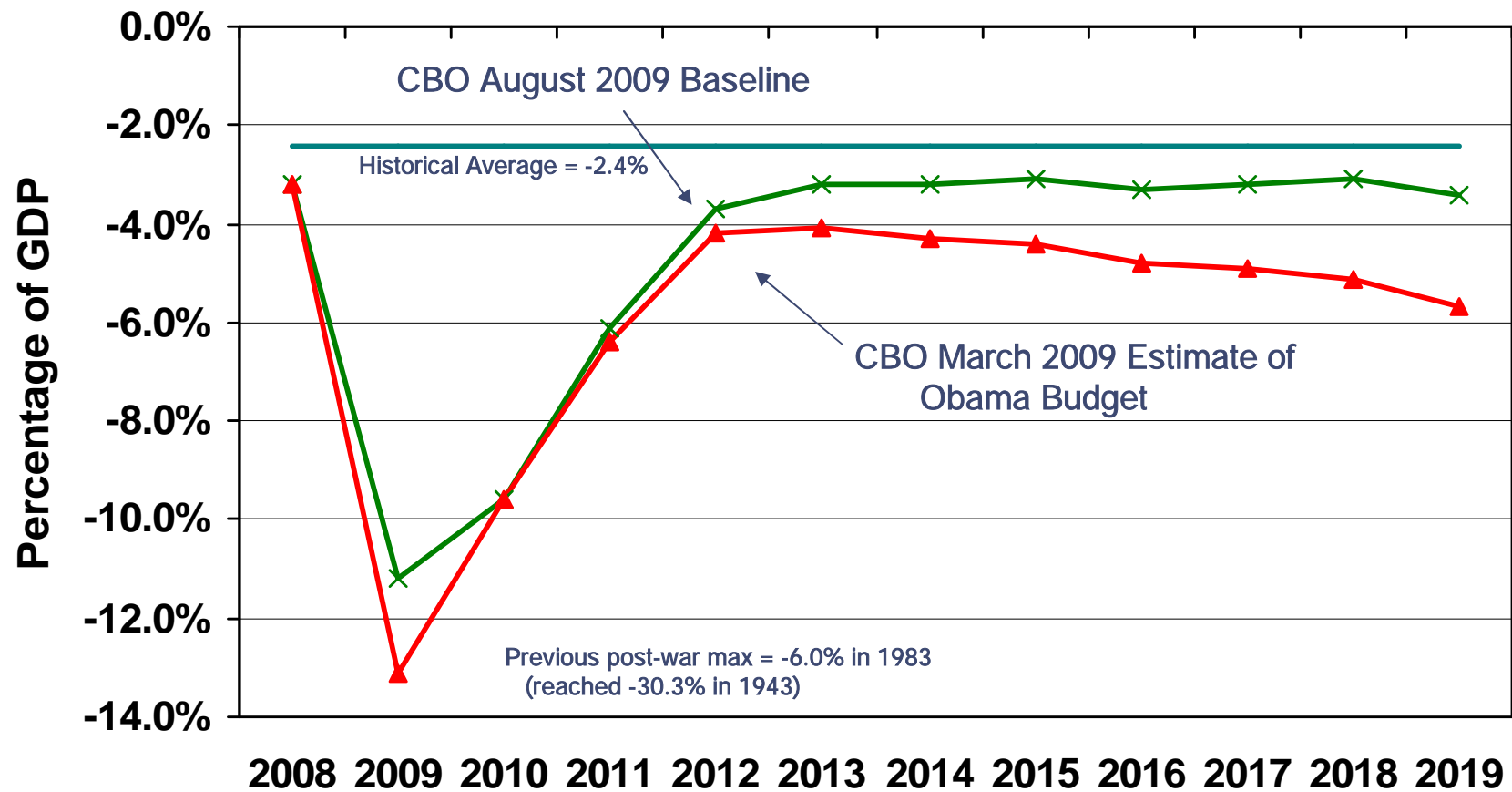
PRICEWATERHOUSECOOPERS 

# Agenda

- Economic factors affecting 2009 tax legislation
- Tax proposals in the administration's budget
- Alternative and renewable energy tax incentives
- Outlook for comprehensive tax reform

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

# Federal Budget Outlook



Source: Congressional Budget Office, March 2009, PricewaterhouseCoopers calculations.

## President's budget: business tax proposals

<b>Provision</b>	<b>10-Year Estimate</b>
Make research tax credit permanent	(\$67.9)
Extend net operating loss (NOL) carryback period	(17.6)
Extend subpart F active financing exception	(3.9)
Extend look through of payments between related CFCs	(0.6)
International tax proposals	159.4
Reinstate Superfund taxes	17.7
Tax carried interest as ordinary income	23.1
Codify economic substance doctrine	7.1
Repeal LIFO inventory accounting method	79.5
Repeal LCM inventory accounting method	7.5
Deny deduction for punitive damages	0.3

## President's budget: international tax proposals

<b>Provision</b>	<b>JCT 10-Year Estimate (\$ billions)</b>	<b>Revised Treasury Estimate (\$ billions)</b>
Reform business entity classification rules for foreign entities	\$31.1	\$36.5
Defer deduction expenses related to deferred income	51.5	52.9
Determine foreign tax credit on a pooling basis	45.6	24.5
Prevent splitting of foreign income and foreign taxes	10.2	18.4
Limit shifting of income through intangible property transfers	1.0	1.0
Limit earnings stripping by expatriated entities	1.5	1.2
Prevent repatriation of earnings in cross-border reorgs	0.4	0.3
Repeal 80/20 company rules	0.9	1.3
Prevent the avoidance of dividend withholding taxes	1.2	1.2
Modify tax rules for dual capacity taxpayers	7.2	4.9
Address offshore tax noncompliance	8.8	8.8
<b>Total</b>	<b>\$159.4</b>	<b>\$151.0</b>

## Other possible international tax proposals

- Repeal worldwide interest expense allocation rules
- Repeal deferral except for same-country sales
- Treat CFCs in “tax havens” as domestic corporations
- Treat foreign-source royalties as passive income
- Limit eligibility for tax treaty benefits
- Deny deferral for “imported property” income of CFCs

## 2009 legislative priorities affecting tax policy

- Economic stimulus
- Energy/climate change
- Health care reform
- Tax extenders
- Estate tax reform
- FAA reauthorization

# Waxman-Markey Bill – American Clean Energy and Security Act of 2009 (“ACES”)

On June 26, the House approved the American Clean Energy and Security (ACES) Act by 219-212 vote.

- 1,400+ pages with over 300 pages on cap and trade

The bill has 7 main components:

1. Cap and trade programs for greenhouse gases (GHGs)
2. Renewable energy standard for electricity (6% in 2012, 20% by 2020)
3. Carbon storage research corporation (industry funded)
4. Loans to manufacturers of advanced technology vehicles
5. Clean Energy Development Admin. (DOE loan and guarantee program)
6. Fuel-efficient vehicle vouchers
7. Tax credits and rebates for low-income families

## Waxman-Markey Bill – American Clean Energy and Security Act of 2009 (“ACES”) *(continued)*

CBO estimates that this legislation would result in additional revenues of \$845.6 billion but direct spending is estimated to increase by \$821.2 billion (over 10 years).

- Past estimates projected full auctioning would raise \$1.2 trillion

## What's next in energy legislation

- Senate Environment and Public Works Committee, chaired by Senator Barbara Boxer (D-CA), targeting September for mark-up of climate change/carbon legislation
- Senate Majority Leader Harry Reid (D-NV) set forth proposed schedule:
  - Other committees have until roughly end of September to consider changes to Environment and Public Works Committee bill
  - Floor debate possible in October
  - Would require conference with House later in the year
- Several energy tax items considered in stimulus debate may resurface (smart grids, energy research credit)
- External factor: Copenhagen conference in December 2009

## Paying for health care reform (selected options)

	10-year Revenue Potential
<b>Health-related sources</b>	
Tax exclusion for employer provided health insurance	\$160 billion to \$1.2 trillion
Surtax on high-cost premiums under “Cadillac Plans”	NA
Medicare and Medicaid cuts *	\$300 billion to \$600 billion
Increase required rebates from pharmaceutical companies *	\$30 billion to \$100 billion
Excise taxes on alcohol, tobacco, sugared drinks	\$100 billion
Eliminate deduction for health spending over 7.5% of AGI	\$180 billion
Repeal exclusion for Health Reimbursement Account (HRA) and Flexible Spending Account (FSA) spending	\$70 billion
Modify treatment of tax exempt hospitals	NA
<b>Other</b>	
Individual AGI surtax *	\$425 billion to \$540 billion
Deferral of worldwide interest allocation / codification of economic substance / tax treaty withholding limitation *	\$37 billion
Limit value of itemized deductions	\$270 billion

\* Included in House Tri-Committee bill.

## Hypothetical one-year tax extender package, based on JCT scoring of administration proposals FY 2010-2019

<b>Extender Provision</b>	<b>Estimate*</b> (\$ billions)
Research & experimentation tax credit	-8.0
Deduction for state and local sales taxes	-2.8
Subpart F active financing provisions	-3.9
Look through of payments between related CFCs	-.574
Various energy tax incentives	-1.4
Other extenders	-12.1
<b>Approximate Total</b>	<b>-29.0</b>
* PwC calculations based on previous JCT estimates.	

Hypothetical one-year tax extender package, based on JCT scoring of administration proposals FY 2010-2019 *(continued)*

<b>Possible Revenue Offsets</b>	<b>Estimate*</b> (\$ billions)
Tax carried interest as ordinary income	23.0
Codify economic substance doctrine	3.6 – 7.0
Proposals to address offshore tax noncompliance	8.7
Extend FUTA surtax of 0.2 percent	1.4
Delay world-wide interest allocation until 2020	26.1
* PwC calculations based on previous JCT estimates.	

## Outlook for tax reform

- President's Economic Recovery Advisory Board
  - Directed to form taskforce on tax reform focused on:
    - Tax simplification
    - Closing "loopholes"
    - Reducing evasion and "corporate welfare"
  - Report with options expected in December
- President open to revenue-neutral corporate rate reduction
- Congressional interest in broader tax reform effort

## US corporate tax reform options

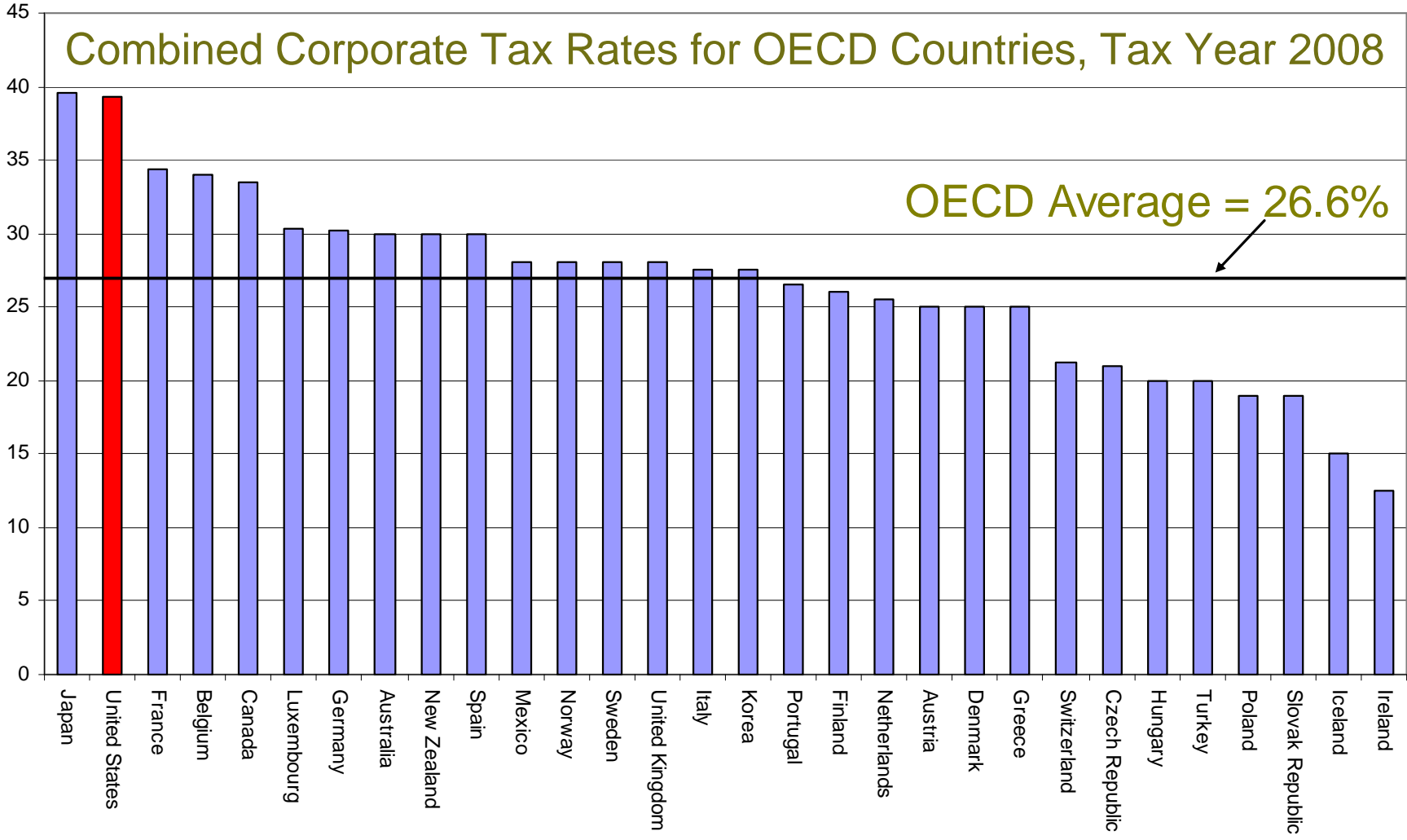
- 2007 Rangel Bill
- Territorial tax system
- Consumption tax options
  - Graetz Competitive Tax Plan

## 2007 Rangel Tax Reform Bill (H.R. 3970): Revenue-Neutral Corporate Rate Reduction

Provision	10-Year Estimate
Reduce corporate income tax rate to 30.5%	(\$364 billion)
Permanent extension of small business expensing	(\$21 billion)
Repeal domestic manufacturing deduction	\$115 billion
Repeal LIFO and LCM inventory methods	\$114 billion
Defer expenses on foreign income and limit FTC	\$106 billion
Repeal worldwide interest expense allocation	\$26 billion
Increase goodwill amortization period to 20 years	\$21 billion
Limit eligibility for tax treaty benefits	\$6 billion
Reduced dividends received deduction	\$5 billion
Codify economic substance doctrine	\$4 billion

# International comparisons

## Corporate rate competitiveness



## 25 of 30 OECD countries have territorial tax systems

Home Country Tax Treatment of Foreign-Source Dividend Income Received by Resident Corporations		
Exemption		Foreign Tax Credit
Australia	Japan	Ireland
Austria	Luxembourg	Korea
Belgium	Netherlands	Mexico
Canada	New Zealand	Poland
Czech Republic	Norway	United States
Denmark	Portugal	
Finland	Slovak Republic	
France	Spain	
Germany	Sweden	
Greece	Switzerland	
Hungary	Turkey	
Iceland	United Kingdom	
Italy		

Note: Some countries limit dividend exemption to substantial shareholders (e.g., 5% or 10% owners). In some cases, dividend exemption is limited to treaty countries that impose corporate income tax above a minimum rate. A few countries (e.g., France, Germany, Belgium, and Japan) exempt 95% rather than 100% of foreign dividends.

## “Competitive Tax” plan

### Four key provisions

1. Enact a Value Added Tax at a 10-14% rate
2. Exempt the first \$100,000 of family income and lower the individual income tax rate to 25%
3. Lower the corporate income tax rate to 15-20%
4. Replace the EITC and give families VAT tax relief through payroll tax offsets and smart cards

[www.pwc.com](http://www.pwc.com)

© 2009 PricewaterhouseCoopers LLP. All rights reserved. "PricewaterhouseCoopers" refers to PricewaterhouseCoopers LLP (a Delaware limited liability partnership) or, as the context requires, other member firms of PricewaterhouseCoopers International Ltd., each of which is a separate and independent legal entity.  
\*connectedthinking is a trademark of PricewaterhouseCoopers LLP.

PRICEWATERHOUSECOOPERS 