Tax policy in a deficit-driven world
2011 Tax Legislative Outlook

January 2011

Washington National Tax Services (WNTS)

pwc

Table of contents

The heart of the matter 2

Concern over unsustainable growth in the federal debt is expected to be both a key motivator and constraint in action on federal spending and tax policy legislation in 2011.

An in-depth discussion 6

The results of the 2010 Congressional midterm elections may mark a turning point in debate over tax legislation.

Balance of Power 7
- Midterm Congressional Elections 7
- Looking Ahead to 2012 Elections 8

Tax Policymakers 9
- House and Senate Leadership 9
- Tax-Writing Committees 11
- Key Treasury and Other Administration Officials 12

2011 Congressional Legislative Schedule 14

Economic Update 15

Federal Deficits and Tax Reform 21
- National Commission on Fiscal Responsibility and Reform 21
- Tax Reform 24
- Corporate Tax Rates 26
- Territorial Tax Systems 27
- Alternative Revenue Sources 28

Administration and Congressional Priorities 29
- Business Tax Proposals 29
- International 30
- Individual Taxes 32
- Health Care 34
- Energy 35
- Trade 37

Expiring Business Tax Provisions 38

Other Legislation 39
- Tax Treaties 39
- State Tax Legislation 42
- Other Legislation 43

What this means for your business 44

The stakes for the business community are high at a time when concerns over high federal budget deficits could open the door to significant tax reform.

Appendices 46

- Appendix A: Congressional Budget Process 46
- Appendix B: Senators up for Election in 2012 47
- Appendix C: Selected Federal Tax Expenditures 48
- Appendix D: Selected Potential Revenue-Raising Proposals 52

PwC Legislative and Regulatory Services Team 59

Acknowledgments 59

The heart of the matter

Concern over unsustainable growth in the federal debt is expected to be both a key motivator and constraint in action on federal spending and tax policy legislation in 2011.

Deficit Concerns Will Influence Tax Policy Debate

Concern over unsustainable growth in the federal debt is expected to be both a key motivator and constraint in spending and tax legislation in 2011. Annual federal deficits recently have exceeded $1 trillion, or between 9 to 10 percent of gross domestic product (GDP). The Congressional Budget Office (CBO) has projected that under current policies, large federal deficits will continue throughout the remainder of the decade and will worsen beyond the current 10-year budget window.

Debate over the federal government's fiscal imbalances is expected to be contentious. Newly elected and returning members of Congress in early spring will face a difficult vote to increase the nation's current $14.294 trillion statutory debt limit. In addition, the current temporary fiscal year (FY) 2011 funding measure for federal government departments and agencies expires on March 4. House and Senate Republican leaders have called for legislation to reduce federal spending by $100 billion, and may attempt to restrict funding for implementation of health care legislation and financial regulatory reforms that were enacted in 2010 as part of extending funding for the government and increasing the statutory debt limit.

Congress in December 2010 passed an $858 billion tax bill—the "Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010" (the "2010 Tax Relief Act")—that included provisions extending Bush-era individual tax provisions generally through 2012 and retroactively extending the research credit and other business tax provisions through 2011. In addition, the estate tax was reinstated through 2012, and an individual alternative minimum tax (AMT) "patch" was provided for 2010 and 2011. The CBO in late January is scheduled to provide new projections of future budget deficits that will include the estimated revenue cost of extending the individual and business tax provisions; the 2010 Tax Relief Act did not include any revenue-raising provisions.

Possible Consideration of Tax Reform

With key individual and business provisions renewed temporarily, President Barack Obama and some in Congress have expressed an interest in considering tax reform proposals along with deficit reduction efforts. It remains unclear whether the Obama Administration will call on Congress to adopt some of the deficit reduction and tax reform proposals advanced late last year by the President's National Commission on Fiscal Responsibility and Reform ("Fiscal Commission"). President Obama and Congress last year did implement one of the Fiscal Commission's spending reduction proposals by freezing federal civilian employee salaries for two years.

The Fiscal Commission's report may influence debate on deficit reduction and tax reform efforts in the future. The plan outlined cuts in domestic and military spending, reductions in Medicare and other mandatory spending, and tax reforms intended to reduce the federal deficit by $3.88 trillion between 2012 and 2020. While not supported by at least 14 out of the 18 members as would be required for a formal recommendation to Congress, tax reform proposals supported by 11 of the commission members would lower rates for individuals and corporations by repealing individual and business "tax expenditures" to broaden the tax base while contributing toward deficit reduction.

The Fiscal Commission's report stated that corporate tax reform is necessary in order to enhance U.S. competitiveness. With Japan poised to lower its corporate tax rate by five percentage points, the United States soon will have the highest corporate tax rate among advanced economies. Also, the United States is one of only a few nations that taxes businesses on their worldwide income. The report suggested in an illustrative tax reform plan that the United States should reduce its corporate tax rate from 35 percent to 28 percent, and also should establish a territorial system for foreign-source dividends to put U.S. companies on a more equal footing with foreign competitors.

Senate Finance Committee Chairman Max Baucus (D-MT) last year began a series of hearings on tax reform that is expected to continue this year. House Ways and Means Committee Chairman Dave Camp (R-MI) recently announced plans to hold a series of hearings on tax reform, and has expressed an interest in examining the global competitiveness of the U.S. tax system.

Differing Priorities

Prospects for bipartisan compromise on tax reform and deficit reduction may be diminished by disagreements on the appropriate role of the federal government and the correct level of overall federal expenditures and revenues.

While concerns remain about sluggish economic growth and high unemployment rates, there does not appear to be strong support in the new Congress for economic stimulus efforts that require direct spending. Instead, there is interest in the Republican-controlled House and among many Republican Senators in eliminating whatever unspent stimulus funding remains. The compromise tax agreement enacted last December extended expanded unemployment benefits through the end of 2011. This additional unemployment relief may have been the final installment of direct spending to address the effects of the longest recession in U.S. history since the Great Depression.

Absent an economic downturn, it is unlikely that the 112th Congress will support additional targeted tax incentives to promote economic growth. As part of last year's compromise tax agreement, Congress enacted the Administration's proposal for temporary 100-percent bonus depreciation, or full expensing, for qualified property through 2011, to be followed by 50-percent bonus depreciation for 2012. The 2010 Tax Relief Act also provided a temporary two-percent reduction in the employee share of Social Security payroll taxes for 2011, which was intended to boost consumer spending.

Health care policy is an area of ongoing disagreement. House Republican leaders have said that they will seek to repeal the health care reform legislation enacted last year. If (as expected) the Democratic-led Senate rejects full repeal, House Republicans have said that they will pass a series of bills in an effort to roll back elements of the health care legislation. Administration officials have responded that President Obama will veto any bills that seek to reverse significant provisions of last year's legislation.

One of the few opportunities for potential agreement related to last year's health care legislation may be efforts to repeal the expanded 1099 business-to-business information reporting mandate enacted as part of that legislation. President Obama and both Democrats and Republicans in Congress have signaled an interest in repealing this provision before it becomes effective in 2012.

Policy differences also may be apparent in February when President Obama submits his proposed federal budget for FY 2012. The Administration is expected to repropose key elements of the President's previous tax policy agenda, including proposals to let Bush-era tax rates expire after 2012 for upper-income individuals and other business revenue-raising proposals that may be discussed as part of any tax reform. For a discussion of the federal budget process, see Appendix A.

The Obama Administration this year may pursue a different approach to business tax issues than over the last two years. President Obama last December met with chief executive officers from several major U.S. corporations to discuss a range of policy concerns, including tax and regulatory issues. Treasury Secretary Timothy Geithner also recently met with a group of chief financial officers, and will continue to meet with business groups to discuss the potential for business tax reform.

Finally, energy policy is another area where the Administration's past priorities may receive limited support in the new Congress. The Administration is not expected to gain support for passage of cap-and-trade climate change legislation, which passed the House in the last Congress only to stall in the Senate. Instead, Republicans and some Democrats in Congress may attempt to pass legislation curtailing the authority of the Environmental Protection Agency (EPA) to regulate greenhouse gases. At the same time, there may be some continued interest in tax incentives for renewable power, as well as proposals dealing with the establishment of renewable energy standards, offshore oil drilling, and nuclear power.

An in-depth discussion

The results of the 2010 Congressional midterm elections may mark a turning point in debate over tax legislation.

Balance of Power

Midterm Congressional Elections

The results of the 2010 Congressional midterm elections may mark a turning point in debate over tax legislation, with control of Congress divided between a Republican-led House of Representatives and a Democratic-led Senate. Halfway through President Obama's first term in office, the outlook for tax legislation is complicated by uncertainty over whether the President's relationship with Congress will be characterized by compromise or gridlock.

With a 63 seat pickup, Republicans enjoyed the largest net gain in the House by any political party since World War II. Under House rules, a simple 218 vote majority generally ensures the ability of the party in control to pass legislation; House Republicans begin the year with 242 seats. However, the Republican-controlled House may experience the same frustration as the previous Democratic majority, which passed numerous bills on which the Senate took no action.

While Democrats enjoyed a 60 vote majority in the Senate for part of the last Congress, Democrats in the new 112th Congress have retained their Senate majority with only 53 seats (including two Independents). Republicans secured a net gain of six seats in the midterm elections and hold 47 seats in the new Senate. As a practical matter, 60 votes generally are needed to approve most legislation in the Senate. With a reduced majority, Senate Democratic leaders will face a greater challenge in gaining the support of enough Senate Republicans to pass legislation.

In any event, President Obama will be able to veto legislation he opposes, with a two-thirds majority of both the House and Senate required for a veto override. At the same time, Republicans in Congress generally will be in a position to block passage of Obama Administration tax increase proposals affecting businesses and individuals.

A New Congress

The political leanings of the House and Senate also have shifted, with a large contingent of new Republican members having been endorsed by various Tea Party-affiliated organizations and a significant reduction in the number of moderate Democrats in Congress.

More than 60 of the 87 new House Republicans were endorsed by Tea Party-related groups. Meanwhile, Republicans won more than half of the seats held by moderate House "Blue Dog" Democrats ("Blue Dogs"). Only 23 out of last year's 54 Blue Dog Democrats have returned to the House.

Newly elected Senators supported by Tea Party organizations include Mike Lee (R-UT), Rand Paul (R-KY), Pat Toomey (R-PA), and Marco Rubio (R-FL). Senate Democratic moderates who either retired or lost their bids for re-election included Senator Evan Bayh (D-IN) and Finance Committee member Blanche Lincoln (D-AR).

Looking Ahead to 2012 Elections

Attention already is being focused on how policy debates over the next two years may be influenced by considerations of the 2012 presidential and Congressional elections.

All 435 members of the House will be up for re-election in two years. Democrats would need to achieve a net gain of 25 seats to regain control of the House. Following the recent 2010 census, states will be drawing new Congressional district lines, with some states losing congressional seats and other states increasing their number of representatives in the House.

Roughly one-third of all Senate seats will be subject to election in 2012, including 23 seats currently held by Democrats and the two Independents who caucus with Senate Democrats. There are 10 Senate Republicans whose seats are up for re-election in 2012. Republicans would need a net gain of four seats to win a 51-seat majority in the Senate.

A listing of all Senators whose seats are subject to election in 2012 is included in Appendix B. Senator Kay Bailey Hutchison (R-TX), Joe Lieberman (I-CT), and Senate Budget Committee Chairman Kent Conrad (D-ND) are the only Senators at this time who have announced plans not to seek re-election in 2012. Senator Conrad also is a senior member of the Senate Finance Committee.

Other Senate Finance Committee members whose terms expire in 2012 are Senators Jeff Bingaman (D-NM), Debbie Stabenow (D-MI), Maria Cantwell (D-WA), Robert Menendez (D-NJ), Thomas Carper (D-DE), Bill Nelson (D-FL), Finance Committee ranking member Orrin Hatch (R-UT), Olympia Snowe (R-ME), and Jon Kyl (R-AZ).

Figure 1: 2010 Election Results

House	111th Congress	112th Congress
Democrat	255	193
Republican	180	242
Senate	**111th Congress**	**112th Congress**
Democrat (includes 2 Independents)	58	53
Republican	42	47

Tax Policymakers

House and Senate Leadership

Rep. John Boehner (R-OH) is the Speaker of the House, after having led House Republicans as Minority Leader for the past four years. Rep. Eric Cantor (R-VA) is the new Majority Leader. Rep. Kevin McCarthy (R-CA) was elected Majority Whip. Senior Ways and Means Republican Rep. Paul Ryan (R-WI) has been named chairman of the House Budget Committee.

Rep. Nancy Pelosi (D-CA) will serve as Minority Leader after holding the Speaker's gavel for four years. Rep. Steny Hoyer (D-MD) is the Minority Whip, and Rep. Jim Clyburn (D-SC) is the Assistant Minority Leader, a new leadership position.

Senate Majority Leader Harry Reid (D-NV) has retained his leadership position, while Senator Dick Durbin (D-IL) continues as Senate Assistant Majority Leader. Senate Finance Committee member Charles Schumer (D-NY) has been named the third-ranking Senate leader as Democratic Conference Vice Chair and Chair of the Democratic Policy Committee.

Senator Mitch McConnell (R-KY) leads a significantly larger group of Senate Republicans as Minority Leader. Senate Finance Committee member Jon Kyl (R-AZ) continues as Assistant Minority Leader, and Senator Lamar Alexander (R-TN) remains Republican Conference Chair.

Figure 2: House Leadership in the 112th Congress

Position	Name
Speaker of the House	John Boehner (R-OH)
Majority Leader	Eric Cantor (R-VA)
Majority Whip	Kevin McCarthy (R-CA)
Chief Deputy Whip	Peter Roskam (R-IL)
Republican Caucus Chair	Jeb Hensarling (R-TX)
Republican Caucus Vice Chair	Cathy McMorris-Rodgers (R-WA)
Republican Campaign Committee Chair	Pete Sessions (R-TX)
Republican Steering Committee Chair	John Carter (R-TX)
Republican Leadership Chair	Greg Walden (R-OR)
Minority Leader	Nancy Pelosi (D-CA)
Minority Whip	Steny Hoyer (D-MD)
Assistant Minority Whip	Jim Clyburn (D-SC)
Democratic Conference Chair	John Larson (D-CT)
Democratic Policy Committee Chair	George Miller (D-CA)
Democratic Campaign Committee Chair	Steve Israel (D-NY)

Figure 3: Senate Leadership in the 112th Congress

Position	Name
President of the Senate	Vice-President Joe Biden (D)
President Pro Tempore	Daniel Inouye (D-HI)
Majority Leader	Harry Reid (D-NV)
Assistant Majority Leader	Richard Durbin (D-IL)
Democratic Conference Vice Chair and Chair of the Democratic Policy Committee	Charles Schumer (D-NY)
Democratic Conference Secretary and Democratic Senatorial Campaign Committee Chair	Patty Murray (D-WA)
Chief Deputy Whip	Barbara Boxer (D-CA)
Minority Leader	Mitch McConnell (R-KY)
Assistant Minority Leader	Jon Kyl (R-AZ)
Republican Conference Chair	Lamar Alexander (R-TN)
Republican Conference Vice Chair	John Barrasso (R-WY)
Republican Senatorial Campaign Committee Chair	John Cornyn (R-TX)

Tax-Writing Committees

House Ways and Means Committee

Rep. Dave Camp (R-MI) is the chairman of the Ways and Means Committee, and Rep. Sander Levin (D-MI) is Ranking Minority Member. As a result of the mid-term elections, the Ways and Means Committee membership has been revised to provide seats for 22 Republicans and 15 Democrats. There will be 10 new Republicans on the Committee, including two House freshmen.

Rep. Eric Cantor (R-VA) has taken a leave of absence from the Ways and Means Committee to serve as House Majority Leader. Several House Democrats who won re-election to Congress lost their seats on the Ways and Means Committee.

Figure 4: House Ways and Means Committee Members, 112th Congress

Republicans	Democrats
Dave Camp (R-MI), chairman	Sander Levin (D-MI), ranking minority member
Wally Herger (R-CA)	Charles Rangel (D-NY)
Sam Johnson (R-TX)	Pete Stark (D-CA)
Kevin Brady (R-TX)	Jim McDermott (D-WA)
Paul Ryan (R-WI)	John Lewis (D-GA)
Devin Nunes (R-CA)	Richard Neal (D-MA)
Patrick Tiberi (R-OH)	Xavier Becerra (D-CA)
Geoff Davis (R-KY)	Lloyd Doggett (D-TX)
Dave Reichert (R-WA)	Mike Thompson (D-CA)
Charles Boustany (R-LA)	John Larson (D-CT)
Dean Heller (R-NV)	Earl Blumenauer (D-OR)
Peter Roskam (R-IL)	Ron Kind (D-WI)
Vern Buchanan (R-FL)	Bill Pascrell (D-NJ)
Jim Gerlach (R-PA)	Shelley Berkley (D-NV)
Tom Price (R-GA)	Joe Crowley (D-NY)
Adrian Smith (R-NE)	
Lynn Jenkins (R-KS)	
Chris Lee (R-NY)	
Erik Paulsen (R-MN)	
Aaron Schock (R-IL)	
Rick Berg (R-ND)*	
Diane Black (R-TN)*	

New Ways and Means Committee Members in bold
*Incoming freshmen

Senate Finance Committee

Senate Finance Committee Chairman Max Baucus (D-MT) retains the gavel of the Senate tax-writing committee. Senator Orrin Hatch (R-UT) is Ranking Minority Member. Prior Ranking Member Charles Grassley (R-IA) is subject to a term limit on that position under Senate Republican Conference rules, but remains on the Finance Committee.

The Finance Committee is expected to have at least two new Republican members, one to fill a new seat reflecting the overall increased number of Republicans in the Senate and another to take the seat vacated by Senator Jim Bunning (R-KY), who retired last year. As noted above, former Finance Committee member Blanche Lincoln (D-AR) lost her bid for re-election, but her former seat will not be filled given the reduced Democratic Senate majority.

Figure 5: Senate Finance Committee Members, 112th Congress

Democrats	Republicans
Max Baucus (D-MT), chairman	*Orrin Hatch (R-UT), ranking minority member*
John Rockefeller (D-WV)	Charles Grassley (R-IA)
Kent Conrad (D-ND)*	*Olympia Snowe (R-ME)*
Jeff Bingaman (D-NM)	*Jon Kyl (R-AZ)*
John Kerry (D-MA)	Mike Crapo (R-ID)
Ron Wyden (D-OR)	Pat Roberts (R-KS)
Charles Schumer (D-NY)	John Ensign (R-NV)
Debbie Stabenow (D-MI)	Michael Enzi (R-WY)
Maria Cantwell (D-WA)	John Cornyn (R-TX)
Bill Nelson (D-FL)	New member to be determined
Robert Menendez (D-NJ)	New member to be determined
Thomas Carper (D-DE)	

*Not running for re-election
Finance Committee members up for election in 2012 shown in *italics*

Key Treasury and Other Administration Officials

President Obama's economic team underwent a transformation in 2010 and may continue to change in 2011. Treasury Secretary Timothy Geithner remains as a leader of the Administration's economic team, but there were several key departures.

Peter Orszag resigned as Office of Management and Budget Director and has been replaced by Jacob Lew. Additionally, Christina Romer, Council of Economic Advisers (CEA) Chair, left the Administration in 2010 and has been replaced by CEA member Austan Goolsbee. Lawrence Summers stepped down as Director of the National Economic Council (NEC) at the end of 2010. Gene Sperling has been appointed as the new NEC director; Mr. Sperling has been a senior adviser to Treasury Secretary Geithner and was NEC director during the Clinton Administration.

Paul Volcker stepped down as chairman of the President's Economic Recovery Advisory Board. President Obama has established a new economic advisory board, the Council on Jobs and Competitiveness, which is led by General Electric Company Chairman and Chief Executive Jeffrey Immelt.

Treasury Assistant Secretary for Tax Policy Michael Mundaca last year was given a temporary recess appointment by President Obama, who at the time cited delays in Senate action on several nominees. Mr. Mundaca's recess appointment expires at the end of 2011. President Obama could resubmit Mr. Mundaca's nomination for formal consideration by the Senate.

Douglas Shulman remains as IRS Commissioner; he was appointed in 2008 to serve a five-year term. William Wilkins also continues as IRS Chief Counsel.

Figure 6: Key Members of the Obama Administration Economic and Tax Policy Team

Position	Name
Treasury Secretary	Timothy Geithner
Director, National Economic Council	Gene Sperling
Director, Office of Management and Budget	Jacob Lew
Chair, Council of Economic Advisers	Austan Goolsbee
Chair, Council on Jobs and Competitiveness	Jeffrey Immelt
Treasury Assistant Secretary for Tax Policy	Michael Mundaca
IRS Commissioner	Douglas Shulman
IRS Chief Counsel	William Wilkins

2011 Congressional Legislative Schedule

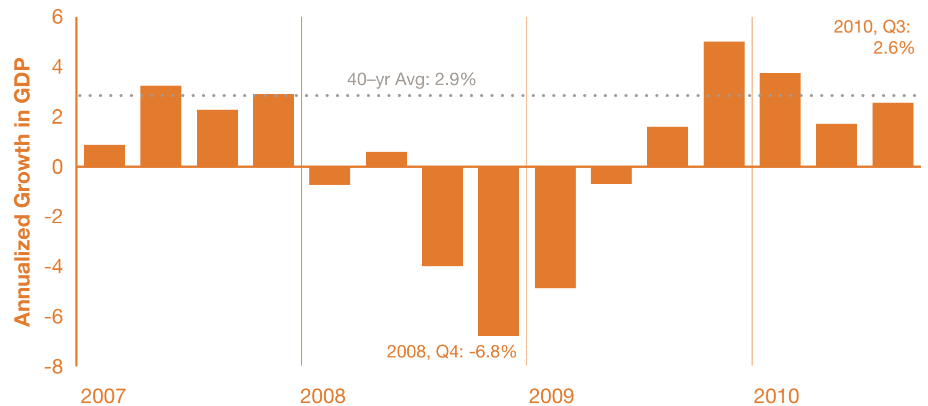
Event	Date
112th Congress convened	January 5
Senate recess	January 10 - 21
President's State of the Union address	January 25
House recess	January 31 - February 4
President's budget submitted	February 14 (tentative)
President's Day recess	February 18 - 25
House/Senate recess	March 21 - 25
Budget resolution deadline	April 15
Spring recess	April 18 - April 29
House recess	May 16 - 20
Senate recess	May 30 - June 3
House recess	June 6 - 10
Independence Day recess	House: June 27 - July 4 Senate: July 4 - 8
August recess	August 8 - September 5
FY 2012 begins	October 1
Veterans Day recess	November 7 - 11 Senate: TBD
Thanksgiving Day recess	House: November 21 - 25 Senate: TBD
Target adjournment	House: December 8 Senate: TBD

Economic Update

In September 2010, the National Bureau of Economic Research announced that the recession officially had ended in June 2009. At the same time, the rate of growth during the current economic recovery that began in July 2009 has not been as strong as the rates of growth during past recoveries from recessions. Labor markets continue to experience significant levels of unemployment, and job growth has been modest. As discussed below, the federal government has responded in an unprecedented fashion through both monetary and fiscal policies.

The economy has shown positive growth in GDP since mid-2009. The growth rates in the third and fourth quarter of 2009, the first two quarters of the current recovery, were 1.6 percent and 5.0 percent, respectively. By comparison, in the post-World War II period, the average growth in the first two quarters of a recovery has been 6.9 percent. Quarterly growth has been 3.7 percent or lower in 2010 and is expected to increase slightly in 2011. For example, by the fourth quarter of 2011, the January Blue Chip consensus expects real GDP growth to reach 3.5 percent.

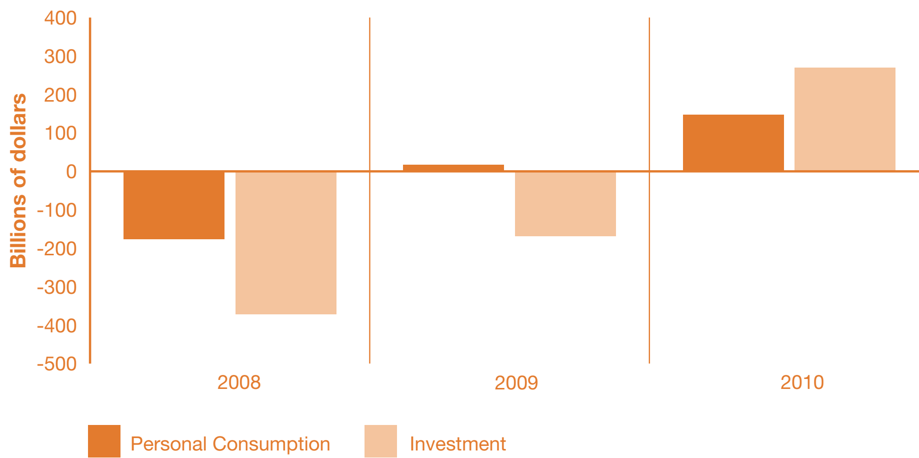
Figure 7: Quarterly Growth in Real Gross Domestic Product, 2007–2010



Source: US Bureau of Economic Analysis, December 22, 2010.

The overall increases in GDP in the initial stages of the recovery were fueled by increased investment, mostly through the rebuilding of net inventories. Overall investment in equipment, structures, and inventories in the third quarter of 2010 was 24 percent higher than the level in the third quarter of 2009. Personal consumption, after having declined through most of 2008 and the first half of 2009, has shown modest increases in recent quarters. As of the third quarter of 2010, investment and consumption are still below pre-recession levels.

Figure 8. Annual Change in Real Consumption and Investment, 2008–2010

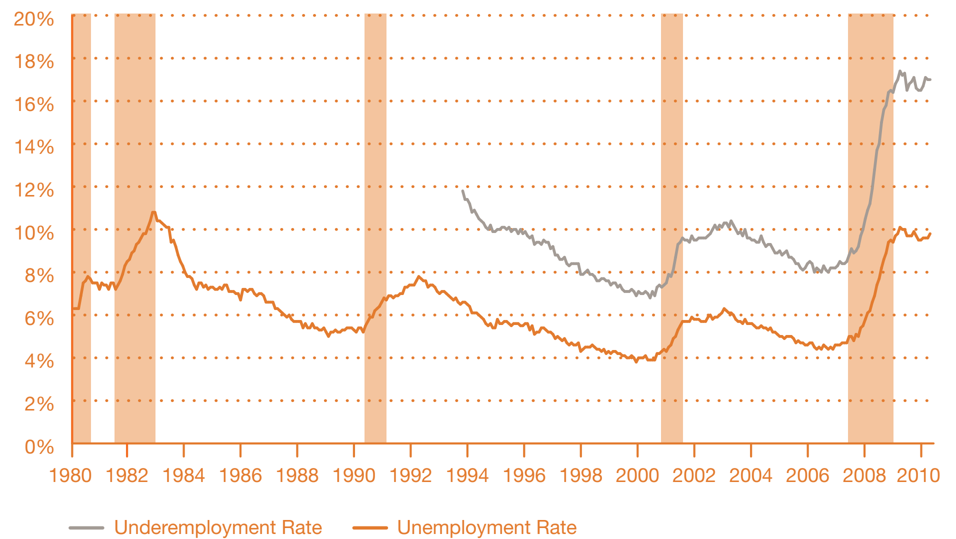


Source: US Bureau of Economic Analysis, December 22, 2010.

Note: 2010 reflects data for first three quarters.

The labor market has lagged behind the modest economic growth occurring since July 2009. As of December 2010, the unemployment rate was 9.4 percent, lower than its recent peak of 10.1 percent in October 2009 but high by historical standards. The underemployment rate, which includes discouraged workers and part-time workers seeking full-time employment, was 16.7 percent in December 2010, also lower than the recent peak of 17.4 percent in October 2009. While the overall level of employment increased modestly in 2010 (approximately 1.1 million jobs were created between January and December), the economy has not restored the 8.5 million jobs lost during the recession.

Figure 9. Unemployment and Underemployment, 1980 - 2010

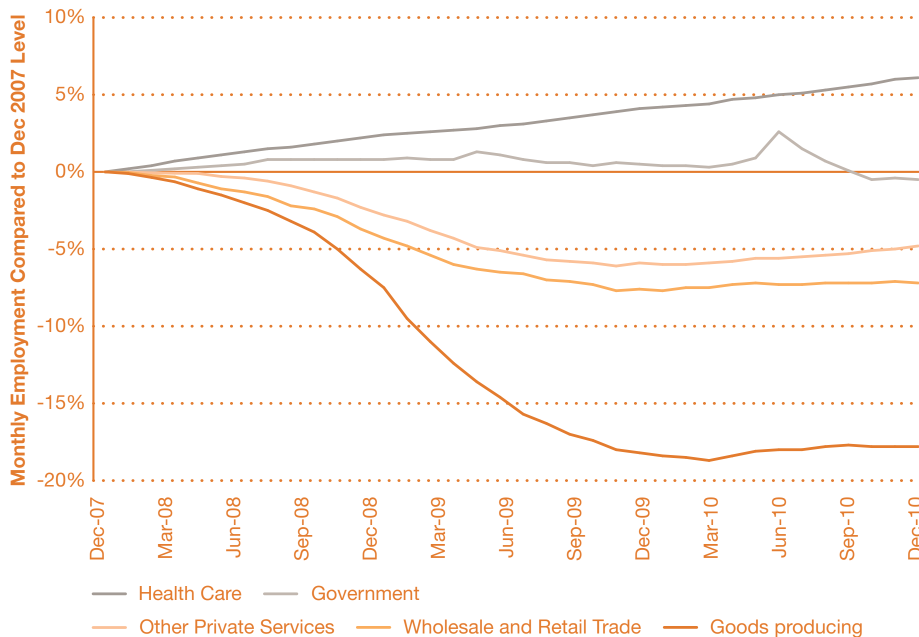


Source: Bureau of Labor Statistics, January 2011. Shaded bands are recessions as determined by the National Bureau of Economic Research.

Projections for the current recovery show the unemployment rate falling slowly over the coming several years. The Congressional Budget Office (CBO) projected in August that the unemployment rate would fall to 8.8 percent by the end of 2011, while more recent estimates from the January Blue Chip consensus show unemployment at 9.1 percent in the fourth quarter of 2011. CBO in August projected the unemployment rate would fall to 7.6 percent by the end of 2012.

The impact of the recession has varied by industry, as demonstrated in Figure 10 below. Between the beginning of the recession in December 2007 and early 2010, employment in the goods-producing sector, principally construction and manufacturing, fell by almost 20 percent. By contrast, the health care industry continued to grow since December 2007; by December 2010, employment in the health care industry was more than 6 percent above the December 2007 level.

Figure 10. Employment by Industry Compared to December 2007



Source: Bureau of Labor Statistics, January 2011, and PwC calculations.

Although labor markets in general continue to struggle, there have been some positive economic indicators:

- Retail sales for December 2010 increased for the sixth consecutive month and for the first time exceeded the November 2007 level, the previous peak before the recession. Given the importance of consumption to the overall economy, continued increases in retail sales would contribute to the broader recovery.
- Orders and shipments of manufactured goods for the first 11 months of calendar-year 2010 were significantly larger than the 2009 levels. Orders through November 2010 were 12.3 percent larger than those in 2009, and shipments were 9.1 percent larger.

Notwithstanding these positive developments, the housing market continues to adjust to the post-meltdown environment. Housing permits in November 2010 were 14.7 percent below the November 2009 level, and housing starts were 5.8 percent lower than November 2009. The housing sector continues to limit the recovery.

Expansionary Policy Since 2007

The federal government and Federal Reserve have undertaken significant policy and monetary interventions in the wake of the financial crisis. Beginning in 2008, the federal government has enacted policies to boost spending and decrease taxes in an attempt to revitalize the economy. These policies include:

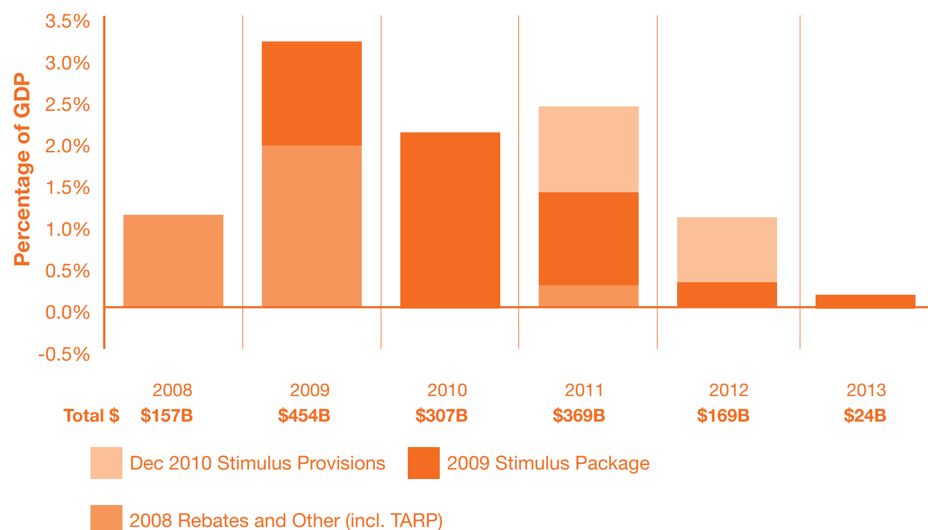
- The payroll tax holiday, unemployment compensation, and bonus depreciation provisions enacted in December 2010;
- The economic stimulus package enacted in February 2009;
- Tax rebates, small business expensing, and bonus depreciation measures enacted in February 2008; and
- Extensions of unemployment insurance and other measures, such as the Troubled Asset Relief Program (TARP).

Taken together, the budgetary impact of these measures represented between 1 percent and 3 percent of GDP ($157 billion to $454 billion) between 2008 and 2012.

Contemporaneous with the fiscal expansion, the Federal Reserve has implemented a significant monetary expansion. Following the meltdown that began in 2007, the Fed provided unprecedented support to financial markets through its typical policy tools, such as setting the federal funds rate, as well as several new forms of intervention, including direct investment in private institutions. By December 2009, it had purchased over $850 billion in mortgage-backed securities to help stabilize financial markets.

On November 3, 2010, the Fed committed to buying $600 billion in U.S. Treasury bonds in an attempt to keep short-term interest rates low and stimulate the economy. (This has been referred to as the second round of quantitative easing, or QE2.) The Fed expects to spend another $300 billion to replace expiring mortgage bonds in its portfolio.

Figure 11. Expansionary Fiscal Measures, FY 2008–2013, as a Percent of GDP

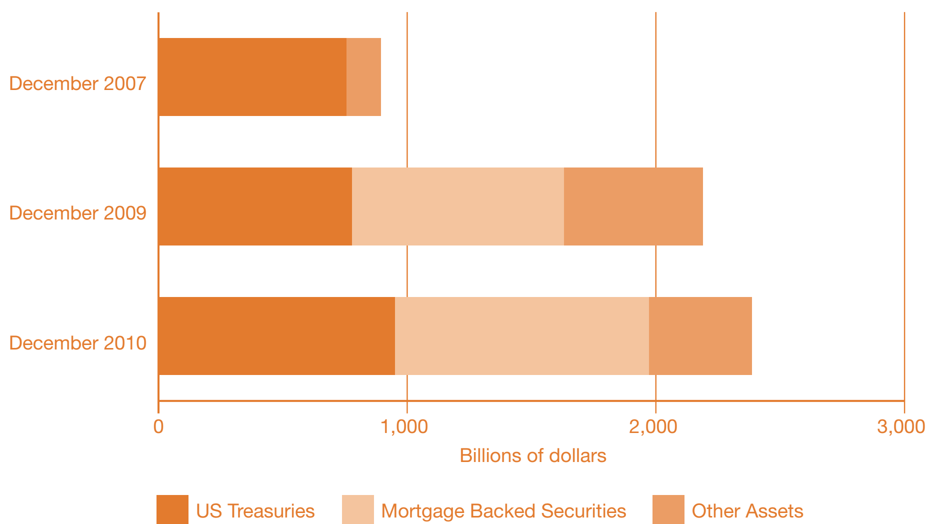


Source: Congressional Budget Office, various publications, and PwC calculations. CBO estimates that TARP will lower the deficit in 2010 as prior amounts are repaid, but these amounts are offset by federal payments for Fannie Mae and Freddie Mac. Figures exclude from all legislation alternative minimum tax relief, estate tax changes, and extension of expiring provisions such as the research tax credit and the 2001/2003 individual tax relief.

By taking ownership of these assets, the Fed increased liquidity in the economy in an effort to encourage stability in financial markets. Some of the programs that were created during the depths of the financial crisis to increase lending to commercial financial institutions have since been phased down. For example, the Commercial Paper Funding Facility and Term Securities Funding Facility have been closed.

At some point, the Fed will have to begin pulling some of the liquidity out of the market to prevent rising inflation. Given the amount of excess capacity in the economy, inflation should not become an issue in the near future. As its balance sheet shrinks toward more typical levels, the Fed will begin to raise the federal funds rate. The Blue Chip Consensus shows low inflation and interest rates persisting through the end of 2011: by the fourth quarter of 2011, inflation is expected to be 1.8 percent, while the yield on 10-year Treasury notes is expected to be 3.8 percent.

Figure 12. Assets on Federal Reserve Balance Sheet



Source: Federal Reserve Board, Assets on Consolidated Federal Reserve Banks as of December 8, 2010, December 10, 2009, and December 27, 2007.

Federal Deficits and Tax Reform

The current outlook for tax reform is expected to be influenced significantly by concerns over unsustainable federal deficits. Indeed, early projections of the 2011 budget deficit are that it may exceed in dollar terms the record deficits of the past two years. These ongoing deficits have intensified the desire of policymakers to make a course correction, which many analysts believe may involve a mix of reduced spending and higher taxes in order to avoid a possible future fiscal crisis.

At present, Democrats and Republicans do not agree on the best approach to deficit reduction—or the relative contributions needed for spending cuts versus tax increases. Whether there is sufficient momentum over the next two years for bipartisan agreement on a comprehensive deficit package is uncertain.

Recent statements by President Obama on tax reform encourage the view that the Administration and Congress will give significant attention to potential reform options over the next two years. While the House Ways and Means Committee and the Senate Finance Committee plan to hold hearings on tax reform, the timing of Congressional action on tax reform legislation is uncertain. Factors influencing such action include the scheduled expiration of the recently extended individual income tax relief and the 2012 elections.

National Commission on Fiscal Responsibility and Reform

The Fiscal Commission, established by executive order of President Obama in February 2010, was tasked with providing recommendations to balance the federal budget, excluding interest payments on the debt, by 2015 and to make meaningful improvements to the long-term fiscal situation. The goal was to reduce the deficit to 3 percent of GDP by 2015; the 40-year average for historical federal deficits is 2.6 percent.

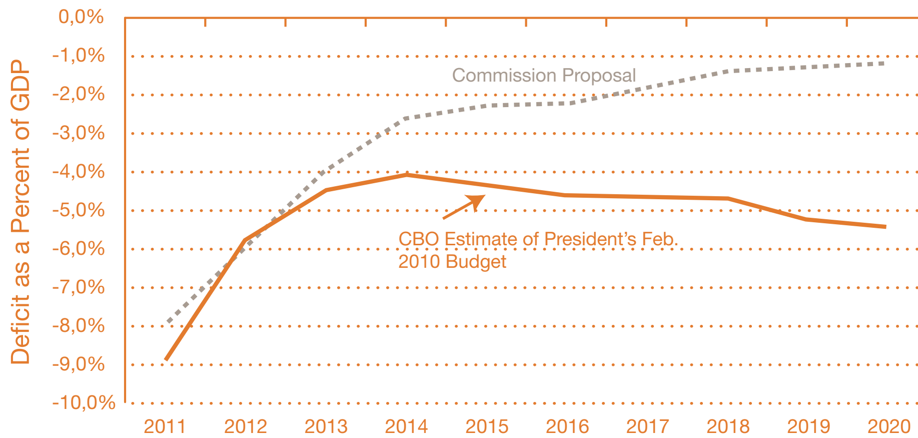
The 18-member commission was led by co-chairs Erskine Bowles, former chief of staff for President Bill Clinton, and former Senator Alan Simpson (R-WY) and included four other Presidential appointees plus six Senators and six Representatives, equally divided between Republicans and Democrats.

The final report of the Fiscal Commission, released December 1, 2010, was supported by an 11-member majority of the members, including three Republicans and three Democrats among the 12 Members of Congress on the panel. The report was not officially recommended to Congress because the commission's charter required a 14-vote "super-majority" to formally submit a deficit reduction plan.

Nonetheless, the report is a comprehensive blueprint for deficit reduction, encompassing spending reforms, budget enforcement mechanisms, and higher tax revenues, principally raised through significant individual and corporate tax reform. Including reforms intended to ensure permanent solvency of Social Security, the proposals in the report were estimated to result in deficit reduction of $4.1 trillion between 2012 and 2020 relative to a "plausible baseline" selected by the Commission to reflect policy in the absence of reform.

Under the Commission plan, the deficit in 2015 would be reduced to 2.3 percent of GDP and decline by 2020 to 1.2 percent of GDP. Figure 13 shows the deficit as a share of GDP under the Fiscal Commission's proposals relative to CBO's estimate of the deficit under the budget plan of President Obama submitted to Congress in February 2010.

Figure 13. Near-Term Impact of Commission Proposal on Deficit, 2011-2020



Source: National Commission on Fiscal Responsibility and Reform, *The Moment of Truth*, December 2010, and Congressional Budget Office, Analysis of the President's FY 2011 Budget, March 2010.

The $4.1 trillion in deficit reduction over 2012-2020 as shown in Figure 14 is derived from:

- Caps on discretionary spending to reduce spending by nearly $1.7 trillion, accounting for nearly half of the non-interest deficit reduction;
- Slowing mandatory spending, principally on health care, accounting for $556 billion;
- Increased tax revenues of $785 billion brought about through tax reforms, described in more detail below;
- A 15-cents-per-gallon increase in the gasoline tax, accounting for $114 billion in new revenues;
- Use of an alternative consumer price index resulting in a slower increase in inflation-indexed components of the tax code, such as the standard deduction and individual income tax brackets, which would raise an additional $96 billion; and
- Social Security reforms raising payroll taxes by $138 billion through an increase in the maximum wage subject to tax and other changes reducing benefit payments by $100 billion over the 2012-2020 period.

Under the Fiscal Commission plan, by 2020 taxes would rise to 20.6 percent of GDP and spending would be 21.8 percent of GDP. This compares to the 40-year historical average of revenues and spending of 18.0 percent and 20.8, respectively. The Commission proposes to "cap" revenues to not exceed 21 percent of GDP in later years.

Figure 14: Fiscal Commission Proposed Deficit Reduction, 2012–2020

Sources of deficit reduction	2012–2020 ($ billions)*	Percent of non-interest deficit reduction
Discretionary spending	$1,661	48%
Mandatory spending	556	16%
"Spending in the tax code"/tax reform	785	23%
Other revenue	210	6%
Social Security reforms	238	7%
Net interest savings	673	n.a.
Total deficit reduction	**$4,125**	

*Numbers do not total due to rounding

Source: National Commission on Fiscal Responsibility and Reform, *The Moment of Truth*, December 2010.

Over the longer term, deficit savings would rise under the phase-in of reforms to slow the growth in spending on mandatory health care programs and Social Security. For example, the Commission proposes gradually increasing the Social Security retirement age between 2027 and 2050 from 67 to 68, with a further increase to 69 by 2075.

Considering all aspects of the Commission plan, the debt-to-GDP ratio is estimated to decline from about 70 percent of GDP in 2015 to 40 percent by 2035. In contrast, CBO recently projected the debt-to-GDP ratio under current policies would reach 100 percent by 2023 and 185 percent by 2035, and would continue to rise rapidly thereafter.

While the Fiscal Commission plan was not formally recommended to Congress, it could serve as a benchmark to budget reform discussions and legislation in 2012. The President may make deficit reduction a theme of his January 2011 State of the Union and may include deficit reduction targets in his fiscal year 2012 budget to be released in February.

The Commission included the top two Congressional budget writers—House Budget Committee Chairman Ryan, and Senate Budget Committee Chairman Conrad—as well as the top two tax writers—House Ways and Means Committee Chairman Camp, and Senate Finance Committee Chairman Baucus. Of these four, only Senator Conrad supported the Fiscal Commission's plan, although Reps. Ryan and Camp concurred with certain approaches undertaken by the Commission.

Tax Reform

President Obama has expressed a strong interest in individual and corporate tax reform under which various deductions and credits would be trimmed back or eliminated in exchange for lower statutory tax rates. In December the President said that he had requested the Treasury Department to review base-broadening reform options.

Such an approach, which was a key proposal of the Fiscal Commission, would expand on the model of the Tax Reform Act of 1986 ("1986 Tax Reform Act"). The 1986 legislation lowered the top individual tax rate from 50 percent to 28 percent and reduced corporate tax rates from 46 percent to 34 percent, while repealing a number of individual and business tax provisions, such as certain tax incentives for real estate investment and the investment tax credit.

Unlike the 1986 Tax Reform Act, which was revenue neutral, the Fiscal Commission's proposals would raise net tax collections by approximately $100 billion per year, generally from individual income taxpayers. Revenues gained through base broadening tax measures would exceed revenues lost from lowering tax rates. Many analysts believe tax reform that increases net revenue collections will be an important component of a comprehensive deficit reduction strategy in light of increasing pressure placed on government spending for entitlement programs as the baby-boom generation enters retirement.

While disagreeing with the revenue increases proposed by the Fiscal Commission, Ways and Means Chairman Camp has separately referenced the "backdoor proliferation" of tax expenditures since the 1986 Tax Reform Act—which he called "spending through the tax code"—as having pushed tax rates higher and harmed economic growth.

Illustrative Tax Reform Plans. The Fiscal Commission report describes "illustrative" tax plans that would lower the top individual and corporate tax rates to 28 percent while broadening the tax base by eliminating or narrowing tax expenditures to increase net revenue collections. The Fiscal Commission estimates that tax expenditures narrow the tax base by $1.1 trillion annually. Individual income tax expenditures are approximately eight times greater than corporate tax expenditures. The Fiscal Commission's tax reform proposals would increase net individual income tax collections by approximately $785 billion over the 2012-2020 period, while holding taxes on business income roughly constant.

Note: Tax expenditures are defined by the Joint Committee on Taxation (JCT) as "revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability." A list of selected business and individual tax expenditures is included in the Appendix C.

Individual Tax Reform. The Fiscal Commission report states than an elimination of all tax expenditures could offset the cost of a 23-percent top individual tax rate. Under the Fiscal Commission's illustrative plan for individual taxpayers, there would be three tax brackets of 12 percent, 22 percent, and 28 percent (Figure 15). Dividends and capital gains would be taxed at ordinary income rates. Itemized deductions would be eliminated. The current deduction for mortgage interest would be converted to a 12-percent nonrefundable tax credit; interest on mortgage principal exceeding $500,000 would not be eligible for the credit. Interest on second homes and home equity loans also would not be eligible. Charitable contributions in excess of 2 percent of adjusted gross income would be eligible for a 12-percent nonrefundable tax credit. The exclusion for employer-provided health insurance would be capped and slowly phased out. Nearly all other individual income tax expenditures would be eliminated.

Figure 15: Fiscal Commission Illustrative Individual Tax Reform Plan (Fully Phased In)

	Bottom Rate		Middle Rate		Top Rate	
Current Individual Rates	10%	15%	25%	28%	33%	35%
Rates under the Illustrative Tax Plan	12%		22%		28%	

Source: National Commission on Fiscal Responsibility and Reform, *The Moment of Truth*, December 2010.

Corporate Tax Reform. Corporate tax reform is viewed as necessary by the Fiscal Commission in order to enhance U.S. competitiveness. The Commission's report states:

> *"Without reform, it is likely that U.S. competitiveness will continue to suffer. The results of inaction are undesirable: the loss of American jobs, the movement of business operations overseas, reduced investment by foreign businesses in the U.S., reduced innovation and creation of intellectual property in the U.S., the sale of U.S. companies to foreign multinationals, and a general erosion of the corporate tax base."*

The Fiscal Commission report states that corporate tax reform should provide a single U.S. corporate tax rate as low as 23 percent and no higher than 29 percent. Its illustrative tax reform plan for corporations features a single 28-percent rate and a territorial system for foreign-source dividends. The Fiscal Commission's report states that the plan would eliminate more than 75 corporate tax expenditures and 30 business tax credits, although it specifically lists by name only certain tax expenditures, including the section 199 domestic production deduction and last-in, first-out (LIFO) inventory accounting (Figure 16). Other corporate tax expenditures listed by the JCT staff encompass a broad range of traditional deductions and tax credits, ranging from the research credit to accelerated depreciation, and long-standing industry-specific provisions.

Figure 16: Fiscal Commission Illustrative Corporate Tax Reform Plan (Fully Phased In)

	Current Law	Illustrative Proposal
Corporate Tax Rates	Multiple brackets, generally taxed at 35% for large corporations	One bracket: 28%
Domestic Production Deduction	Up to 9% deduction of Qualified Production Activities Income	Eliminated
Inventory Methods	Businesses may account for inventories under the Last-In, First-Out (LIFO) method of accounting	Eliminated with appropriate transition
General Business Credits	Over 30 tax credits	Eliminated
Other Tax Expenditures	Over 75 tax expenditures	Eliminated
Taxation of Active Foreign-Source Income	Taxed when repatriated (deferral)	Territorial system
Taxation of Passive Foreign-Source Income	Taxed currently under Subpart F	Maintain current law

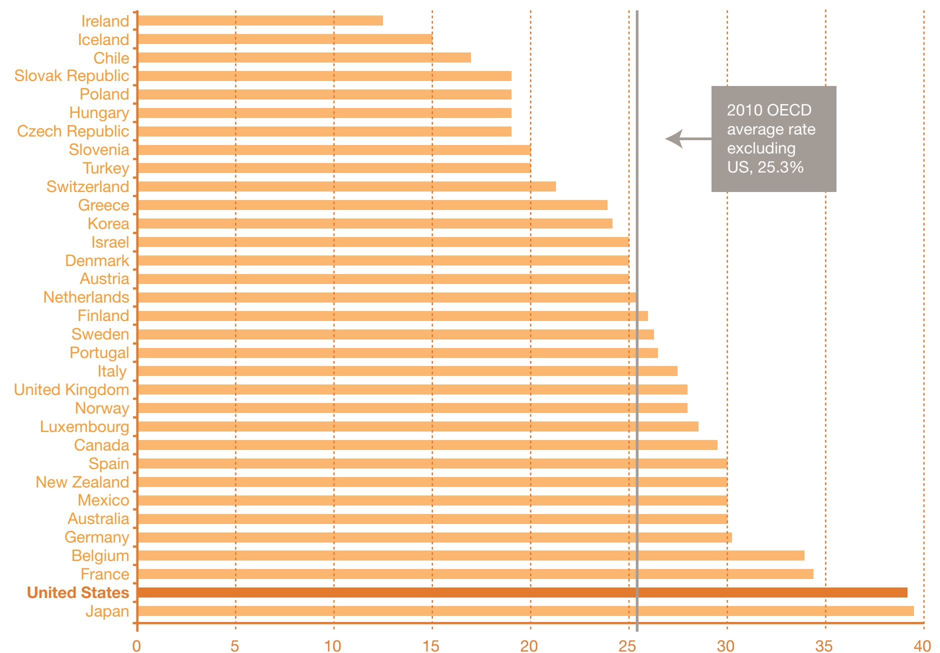
Source: National Commission on Fiscal Responsibility and Reform, *The Moment of Truth*, December 2010.

Corporate Tax Rates

In 2010, the combined federal and state corporate tax rate in the United States was 39.2 percent, roughly 14 percentage points higher than the 25.3 percent average of the other 33 OECD countries (Figure 17), which includes both national and local tax rates. The 28-percent U.S. statutory corporate tax rate in the Fiscal Commission's illustrative reform proposal would still be higher than the average of other OECD countries. Further, the combined U.S. federal and state tax rate would be approximately 32.7 percent under the Commission proposal. The U.S. federal rate would need to decline to approximately 20 percent in order to match the average combined national and local rates in the rest of the OECD in 2010.

Despite the recent worldwide recession, many countries are further lowering their corporate tax rates. The United Kingdom, for example, has enacted a reduction in its rate from 28 percent to 27 percent, beginning April 1, 2011, and has proposed further reductions to 24 percent by 2014. Canada, the United States' largest trading partner, on January 1, 2011, reduced its corporate tax rate from 18 percent to 16.5 percent. Japan, which has had the highest rate in the OECD, recently announced its intention to lower its rate by five percentage points beginning in 2011. If that happens, the United States will have the highest corporate tax rate in the world.

Figure 17: OECD Corporate Tax Rates (Combined Federal and Local), 2010



Source: OECD Tax Data Base.

A recent report of the President's Economic Recovery Advisory Board examining tax reform options estimated that each percentage point reduction in the U.S. corporate tax rate reduces revenues by approximately $120 billion over the 10-year budget period.

Other proposals with significant corporate rate reduction include the reform proposal of Senator Ron Wyden (D-OR) and former Senator Judd Gregg (R-NH), which features a 24-percent corporate tax rate, and deficit reduction plans of the Bipartisan Policy Center task force chaired by former Senator Pete Domenici (R-NM) and former CBO director Alice Rivlin that sets a 27-percent corporate rate. Senator Gregg, who retired last year, and former CBO director Rivlin both also served on President Obama's Fiscal Commission.

Territorial Tax Systems

To place American businesses on a level playing field with their foreign competitors, the Fiscal Commission report proposes a territorial tax system for the United States similar to the territorial systems of other countries. The United States is one of the few developed countries to tax foreign earnings under a worldwide tax system. Among the other 33 countries in the OECD, 27 countries have a territorial tax system exempting all or most foreign dividends (Figure 18).

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. Other than the United States, all other countries utilizing a foreign tax credit system have low corporate tax rates.

Figure 18: 27 of the 34 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	Chile
Austria	Luxembourg	Ireland
Belgium	Netherlands	Israel
Canada	New Zealand	Korea
Czech Republic	Norway	Mexico
Denmark	Portugal	Poland
Estonia	Slovak Republic	United States
Finland	Slovenia	
France	Spain	
Germany	Sweden	
Greece	Switzerland	
Hungary	Turkey	
Iceland	United Kingdom	
Italy		

Source: PwC.

While details of its territorial tax system proposal were not provided in the Fiscal Commission's December 1 report, the report makes frequent reference to the need for a "competitive" territorial system like those of other countries. The earlier report by the President's Economic Recovery Advisory Board stated that a territorial tax system comparable to other OECD countries would reduce tax revenues by $130 billion over 10 years. The Advisory Board report also noted that a territorial tax system that provided for expense allocation, as recommended in options produced by the Joint Committee on Taxation staff in 2005 and in a report by President George W. Bush's tax reform advisory panel, could be revenue neutral or increase tax collections, but would be very different from the territorial tax systems of other developed countries.

Unless accompanied by significant rate reduction, a shift to a territorial tax system could subject foreign-source royalties to higher rates of U.S. taxation. In order to maintain and enhance incentives to create and develop intangible capital domestically, a number of countries have adopted "patent boxes" or special regimes to tax intellectual property at lower rates. OECD countries with such special tax regimes for intellectual property include Belgium, France, Hungary, Ireland, Luxembourg, the Netherlands, Spain, and Switzerland. The United Kingdom recently announced its intention to adopt such a regime for patents effective in 2013.

Alternative Revenue Sources

Although the Fiscal Commission proposes higher gasoline taxes to assist in deficit reduction, it did not propose a new revenue source, such as a broad-based consumption tax. The United States relies on consumption taxes to a much smaller degree than other OECD countries; it is the only OECD country without a national-level value-added tax (VAT) or goods and services tax.

Fiscal Commission member Andy Stern included a hybrid income-consumption tax option in his proposed alternative to the Commission's report. Under Stern's option, a 10-15-percent consumption tax would finance significant individual tax reform and corporate rate reduction.

In a separate plan designed by a task force of the Bipartisan Policy Center, jointly chaired by former Senator Domenici and former CBO director Rivlin, a 6.5-percent "debt reduction sales tax" would be implemented. Although referred to as a sales tax in the task force recommendations, it would operate in the same manner as a VAT, with tax being collected at each stage of production and a credit given for prior taxes on production inputs. The consumption tax, which would phase in at a three-percent rate in 2012, would apply to a broad measure of consumption. The proposal is estimated to raise $3 trillion between 2012 and 2020.

An alternative approach was taken by Rep. Paul Ryan in his "Roadmap for America's Future" proposal last year, in which he proposed to repeal the corporate income tax and replace it with an 8.5-percent subtraction method VAT (also referred to as a business activities tax). Like a VAT, but unlike the corporate income tax, the tax in Ryan's proposal would be border-adjustable, i.e., it would be levied on imports to the United States and refunded on exports from the United States.

Other significant new revenue sources sometimes discussed in the context of deficit reduction are taxes on the emissions of greenhouse gases. CBO estimates that a cap-and-trade program under which emission allowances were auctioned beginning in 2012 could raise $880 billion between 2012 and 2020, assuming an auction price equivalent to a fee on carbon dioxide emissions of $23 per ton, with the price rising by 5.8 percent annually. As discussed below, there appears to be little support for cap-and-trade legislation in the new Congress.

Administration and Congressional Priorities

Business Tax Proposals

Note: Administration tax proposals discussed below are subject to revision if included in the President's budget for FY 2012, which is expected to be released the week of February 14. Revenue estimates cited below for the President's previous tax proposals were provided last year by JCT staff (JCX-7-10 R).

Permanent Extension of the Research Tax Credit

During his 2008 campaign, President Obama pledged to support making the research tax credit permanent. According to the Treasury Department's explanation of the Obama Administration's FY 2011 budget, "uncertainty about the future availability of the [research] tax credit diminishes the incentive effect of the credit because it is difficult for taxpayers to factor the credit into decisions to invest in research projects that will not be initiated and completed prior to the credit's expiration."

On September 8, 2010, President Obama renewed his call for Congress to extend permanently the research credit, and also proposed that the existing alternative simplified credit rate be increased from 14 percent to 17 percent. A White House fact sheet notes that "the United States now provides one of the weakest incentives" for research and development among major trading partners. The Administration's proposed permanent extension of the research credit was estimated to cost $100 billion over 10 years.

A number of bills have been introduced in past years to make the research credit permanent. For example, Senate Finance Chairman Baucus in the last Congress introduced a bill to modify and make permanent the research credit.

The research credit repeatedly has been extended on a temporary basis since it was enacted in 1981, with the most recent extension covering 2010 and 2011.

Repeal of the Last-In, First-Out (LIFO) Inventory Accounting Method

In its FY 2011 budget, the Obama Administration proposed to prohibit by statute use of the LIFO method of accounting for inventories, effective for tax years beginning after 2011. Under the President's proposal, taxpayers currently using LIFO would be required to write up their beginning LIFO inventory to its first-in, first-out (FIFO) value in their first tax year beginning after 2011. The resulting increase in gross income would be taken into account ratably over a 10-year period beginning with the first taxable year beginning after 2011. This proposal was projected to raise $75.3 billion over 10 years.

Repeal of the Lower-of-Cost-or-Market (LCM) Inventory Accounting Method

In its FY 2011 budget, the Obama Administration proposed to prohibit by statute use of the LCM method and the subnormal goods method. In addition, the proposal calls for appropriate wash-sale rules to prevent taxpayers from circumventing the provision. The proposal treats the change as a change in the taxpayer's method of accounting for its inventories, and any resulting section 481(a) adjustment would be taken into account ratably over a four-year period beginning in the year of change. This proposal, which would be effective for tax years beginning 12 months after the date of enactment, was projected to raise $8.0 billion over 10 years.

Other Revenue-Raising Business Tax Proposals

In addition to proposals discussed above, President Obama is expected to re-propose in his FY 2012 budget other revenue-raising proposals remaining from his FY 2011 budget.

During 2010, "carried interest" legislation was discussed as a possible revenue raiser for several bills, but was not enacted. This provision could be re-proposed in the Administration's FY 2012 budget. This proposal would tax "carried interest," often received by hedge fund and private equity managers, as ordinary income, rather than capital gains.

Additional significant business tax increases that may be re-proposed as part of the Administration's FY 2012 budget include:

- Reinstate Superfund taxes
- Repeal gain limitation for dividends received in reorganization exchanges
- Deny deduction for punitive damages
- Levy payments to Federal contractors delinquent with tax debt
- Extend permanently the unemployment insurance surtax.

One of the largest new business revenue-raisers in the Administration's FY 2011 budget was the "financial crisis responsibility fee." This fee would apply to certain banks, insurance companies, and broker-dealers. An Administration decision to revisit this proposal may be influenced by reduced estimates for federal costs under the TARP program.

For a list of potential revenue-raising tax provisions proposed in past bills, Administration budgets, or CBO or JCT staff reports, see Appendix D.

International

The 2010 Tax Relief Act provided two-year extensions of the subpart F exception for active financing income and the "look-through" treatment of payments between related controlled foreign corporations (CFCs). These provisions, which had expired on December 31, 2009, now are effective retroactive to January 1, 2010, and are set to expire on December 31, 2011 for calendar-year taxpayers. It is assumed that the President's FY 2012 budget again may propose to extend these provisions for at least one year.

Treasury officials have suggested that the Administration may modify certain international tax proposals from its FY 2011 budget that were not enacted in 2010. The Republican-led House is not expected to approve any international tax proposals that could be viewed as having a negative impact on the global competitiveness of American companies, but the Democratic-led Senate may be more receptive to some of the Administration's revenue-raising proposals. In addition, such proposals may be discussed as part of any tax reform.

The following are some of the significant international proposals put forth previously by the Obama Administration that may be re-proposed this year:

Determine the Foreign Tax Credit on a Pooling Basis

This Administration proposal would restrict a U.S.-based multinational corporation's deemed-paid foreign tax credits (FTCs) to the average rate of total foreign tax actually paid on total foreign earnings, thus eliminating the selective cross-crediting of high-tax and low-tax foreign income. This proposal was projected to raise $49.2 billion over 10 years.

The Administration's "blended foreign tax pool" approach would fundamentally change the existing rules, which treat each foreign subsidiary of a U.S. taxpayer as having its own pool of earnings and taxes. The U.S. parent can claim an indirect FTC for foreign taxes paid by those subsidiaries; if each subsidiary has its own pool, the U.S. parent may be able to choose when to claim the credits for the respective high- or low-tax foreign income. Under the Administration proposal, that flexibility would be lost with respect to these "deemed-paid" FTCs for taxes paid by foreign subsidiaries, but the proposal would not apply to foreign taxes paid directly by a U.S. taxpayer.

Deferral of Interest Expense Deduction Allocable to Deferred Foreign Earnings

Under this Administration proposal, deductions for interest expense allocable to foreign assets would be allowed only to the extent that foreign-source income ("FSI") is earned by the U.S. taxpayer. This proposal was projected to raise $35.5 billion over 10 years.

Any such deduction that is properly allocable or apportionable to FSI that is not currently taxed in the U.S. would be deferred until an equivalent amount of deferred FSI becomes taxable in the United States. This proposal seeks to match more closely the timing of interest expense deductions with income inclusion. Because worldwide allocation of interest expense is not effective until taxable years beginning after December 31, 2020, only U.S. interest expense is implicated.

An earlier 2009 proposal was much broader, deferring deductions for "foreign-related deductions." Some commentators questioned whether this approach would have meaningful impact on keeping jobs in this country, and, as stated above, the most recent proposal was narrowed to include only interest expense.

Current Tax on "Excess" Returns Associated with Transfers of Intangible Property Offshore

This proposal, put forth for the first time last year, reflected concern in the Administration and by some in Congress about intangible property (IP) transferred offshore from the United States to a related person. The Administration proposed a new category of Subpart F income associated with certain outbound IP transfers to low-taxed CFCs. Under the proposal, if a U.S. person has transferred IP from the United States to a related CFC that is subject to a low foreign effective tax rate in circumstances that evidence excessive income shifting, then an amount equal to the excessive return would be treated as Subpart F income in a separate FTC limitation basket. This proposal was projected to raise $10.2 billion over 10 years.

Limit Shifting of Income Through Intangible Property Transfers

This carryover proposal to limit shifting of income through IP transfers would prevent what the Administration considers inappropriate shifting of income outside the United States by "clarifying" the definition of IP subject to an outbound toll tax. The proposal specifically includes workforce-in-place, goodwill, and going concern value. The proposal also authorizes the IRS to value intangible property on an aggregate basis in the case of the transfer of multiple intangibles, and provides that intangible property must be valued at its highest and best use. This proposal was projected to raise $474 million over 10 years.

Other International Tax Proposals

The Administration's FY 2011 budget included several other international tax proposals that were not enacted in 2010 and could be carried over to the FY 2012 budget. These include provisions that would:

- disallow deductions for excess non-taxed reinsurance premiums paid to affiliates,
- limit earnings stripping by expatriated entities,
- modify the tax rules for dual capacity taxpayers, and
- repeal gain limitation for boot dividends received in reorganizations.

Individual Taxes

Congress in December 2010 extended Bush-era individual tax provisions generally through 2012, including a 35-percent top individual rate and temporary repeal of limitations on itemized deductions ("Pease") and personal exemption phase-outs ("PEP"). In addition, the estate tax was reinstated through 2012, and an individual alternative minimum tax (AMT) "patch" was provided for 2010 and 2011.

At this writing, President Obama is expected to propose again that tax rates originally enacted in 2001 and 2003 should be made permanent for families with incomes below $250,000 and individuals with incomes below $200,000, but should expire for taxpayers with incomes above those levels. The Administration also is expected to propose that the Pease and PEP provisions be reinstated for upper-income taxpayers. Pease on average has the effect of increasing individual effective tax rates by 1.2 percent. Finally, the Administration is expected to renew its support for a permanent estate tax, possibly at 2009 levels, and making AMT tax relief permanent.

While the House is expected to pass legislation that would make the Bush-era tax rates permanent for all individuals, the Senate may again find it difficult to secure 60 votes for any final resolution to the ongoing debate over individual taxes. Similarly, the House may approve a full repeal of the estate tax, but the Senate is likely to struggle with how to provide some degree of certainty for families planning their estates.

In addition to supporting permanent extension of Bush-era tax provisions, for all individual taxpayers, House Republican leaders have expressed support for additional tax reductions, including a deduction for small businesses equal to 20 percent of their income.

Individual Income Tax Rates

The Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") created a new 10-percent regular income tax bracket, adjusted the 15-percent tax bracket, and reduced other regular income tax rates to 25 percent, 28 percent, 33 percent, and 35 percent. The 2010 Tax Relief Act extended these individual income tax rates through 2012.

Federal Income Tax Rates for 2011

Individual	Married (filing joint return)	Rate
Not over $8,500	Not over $17,000	10%
$8,500 - $34,500	$17,000 - $69,000	15%
$34,500 - 83,600	$69,000 - $139,350	25%
$83,600 - $174,400	$139,350 - $212,300	28%
$174, 400 - $379,150	$212,300 - $379,150	33%
Over $379,150	Over $379,150	35%

Source: Joint Committee on Taxation staff.

Capital Gain and Dividend Rates

Currently, an individual's qualified dividend income is taxed at the same rates that apply to net capital gain. Since 2003, the top rate for capital gain and qualified dividends has been 15 percent, but this provision was set to sunset on December 31, 2010. Under the 2010 Tax Relief Act, the top rate of 15 percent for capital gain and qualified dividends has been extended through 2012.

Without further action by Congress, qualified dividend income will be taxed at ordinary income rates beginning in 2013, and the top rate on capital gain will revert to 20 percent. As discussed below, a significant new 3.8-percent Medicare health insurance tax on an individual's net investment income also is scheduled to be effective in 2013 under last year's health care law.

Estate and Gift Taxes

The 2010 Tax Relief Act reinstates through 2012 estate and generation-skipping transfer taxes, effective for individuals dying and transfers made after December 31, 2009. A top tax rate of 35 percent and a $5 million exemption are provided, with the exemption amount indexed for inflation after 2011. For gifts made in 2010, the gift tax exemption is $1 million and the rate is 35 percent. For gifts made after 2010, the gift tax is reunified with the estate tax; thus, the gift tax exemption is increased to $5 million, with a top rate of 35 percent. For 2010, the generation skipping tax rate is zero percent; the rate for 2011 and 2012 is 35 percent.

The 2010 Tax Relief Act provides a new provision for exemption portability between spouses. The law also allows a deduction for estate taxes paid to any State or the District of Columbia for an individual dying after 2009.

In addition, the law reinstates the step-up basis rules in place prior to 2010, effective after December 31, 2009. The legislation generally repeals the modified carryover basis rules that had been in effect for 2010. For the estates of individuals who died in 2010, the estate's executor may elect to apply previous 2010 law or the rules under the new legislation.

Health Care

The Patient Protection and Affordable Care Act of 2010 and a related Reconciliation Act of 2010 were the top domestic policy priority for the Obama Administration and Democrats in Congress last year. The health care reform debate required several months of legislative debate in the House and Senate. The legislation ultimately was enacted over the opposition of House and Senate Republicans.

House Republican leaders have stated that they will seek to repeal the health care reform legislation enacted last year. If the Senate rejects full repeal, House Republicans have stated that they will pass a series of bills in an effort to roll back elements of the health care legislation. Republicans in the House and Senate have proposed to replace last year's health care law with new health care legislation that would reform medical liability laws, allow individuals to purchase health care coverage across state lines, and create health insurance purchasing pools for small businesses.

The House Ways and Means Committee is expected to consider proposals to "repeal and replace" specific health care provisions under the committee's jurisdiction. It is uncertain how much time the Senate Finance Committee will devote to health care this year.

Administration officials have stated that President Obama will veto any bills that seek to reverse significant provisions of the 2010 health care law. Enhanced health care coverage provisions that became effective last year included a phased-in elimination of pre-existing illness conditions, coverage of dependents until age 26 on a parent's health insurance policy, and expanded benefits under the Medicare prescription drug program.

Some key provisions of the health care legislation will not become effective for some time. In particular, a mandate for individuals to purchase health care coverage will not become effective until 2014. This provision has been the subject of several lawsuits brought by State attorney generals, and the U.S. Supreme Court is expected ultimately to decide the constitutionality of the mandate.

Tax provisions enacted as part of the health care legislation that became effective last year included codification of the economic substance doctrine, a new therapeutic discovery project tax credit, an excise tax on indoor tanning services, and a limit on the cellulosic biofuel credit. A number of tax provisions and fees affecting insurance companies and pharmaceutical companies become effective in 2011 and 2012.

A significant new 3.8-percent Medicare health insurance tax on an individual's net investment income and a 0.9-percent increase in the Medicare health insurance tax on ordinary income is scheduled to be effective in 2013. An excise tax on high-value "Cadillac" health insurance plans provided by employers is scheduled to be effective in 2018.

President Obama and both Democrats and Republicans have signaled an interest in repealing the expanded 1099 business-to-business information reporting mandate enacted as part of last year's legislation before the provision becomes effective in 2012. The provision originally was estimated to raise $17 billion over 10 years. It remains to be seen whether the cost of repealing this provision will be offset, and if so, by spending cuts or revenue raisers.

Energy

Climate Change

Congress is expected to continue to debate climate change issues in 2011, but measures such as cap-and-trade, which dominated the energy debate in 2009 and 2010, are unlikely to be the focus. Rather, Congress likely will explore a broad range of energy issues, including oversight of the Environmental Protection Agency, a possible national renewable energy standard, and tax incentives for renewable power. There also may be proposals addressing the oil and gas sector, including offshore drilling and oil spill liability issues.

The EPA has issued final rules for reporting and, in some cases, mitigating greenhouse gas (GHG) emissions. Several lawsuits have been filed against the new EPA rules. If the courts do not block the EPA rules, Congress may consider action in this area.

Renewable Energy Standard

Congress may consider proposals for a national renewable energy standard (RES). Many states already have RES targets, which require that a certain percentage of a state's energy be produced from renewable resources.

In September 2010, Senators Jeff Bingaman (D-NM) and Sam Brownback (R-KS) proposed a bill that called for a national RES, requiring power plants to derive four percent of their electricity from renewable resources by 2012 and 15 percent by 2021. The bill would have allowed utilities to purchase renewable energy credits or make "alternative compliance payments" estimated at a value of 2.1 cents per kilowatt hour (i.e., commensurate with the current inflation-adjusted rate allowed as an electricity production tax credit under section 45). The bill would have exempted power plants that sell less than four million megawatt hours.

Senator Lindsey Graham (R-SC) proposed an alternative that would have included nuclear and clean coal production as eligible resources toward meeting the renewable electricity production standards.

Energy Tax Incentives

Renewable energy tax incentives may be considered as well. Section 1603 of the American Recovery and Reinvestment Act of 2009 (ARRA) established a program allowing companies to apply for a cash grant from Treasury in lieu of claiming renewable energy investment tax credits under section 48. As enacted in the ARRA, the cash grant program requires applicants to begin construction of their projects by December 31, 2010. The 2010 Tax Relief Act extended that deadline to December 31, 2011.

The 2010 Tax Relief Act extended a number of energy-related provisions through 2011, including:

- Biodiesel and renewable diesel credit
- Refined coal credit
- Alternative fuel and alternative fuel mixtures credit
- Temporary rule for sales or dispositions to implement FERC or state electric restructuring policy for qualified electric utilities
- Suspension of limitation on percentage depletion for oil and gas from marginal wells
- Ethanol
- Energy-efficient appliances credit
- Energy-efficient home credit
- Alternative vehicle refueling property credits.

The 2010 Tax Relief Act also modified the section 25C credit for the purchase of qualified energy efficiency improvements to existing homes, to provide that exterior windows and doors must meet the 2011 Energy Star program requirements (allowing for variations in different climate regions around the country).

The expiration of other energy tax incentives also may be addressed by the new Congress. The production tax credit (section 45) for wind expires after 2012 and for biomass and some geothermal technologies after 2013, while the accelerated deduction for energy-efficiency investments (section 179D) expires after 2013. Consideration of such extensions may begin in 2011 either individually or as part of a larger tax reform discussion.

In December 2010, Senators Bingaman and Olympia Snowe (R-ME) proposed a package of sweeping energy tax incentives. Although those legislative proposals were not accepted, Senator Bingaman is chairman of the Senate Energy and Natural Resources Committee, and both Senators are members of the Finance Committee; thus, their joint effort could serve as the basis for renewable energy tax proposals in Congress. The Bingaman-Snowe proposal included new and expanded energy tax incentives for a variety of activities, including home and commercial building energy efficiency, energy property manufacturing, renewable electricity production, alternative fuels production and usage, energy storage property, and water usage.

In the near term, other potential energy tax incentive proposals may focus on alternative vehicles. Senate Majority Leader Reid in September 2010 introduced a bill that would have provided tax incentives for the manufacture and purchase of natural gas vehicles, as well as offering government-subsidized loans to enhance the consumer purchasing power for such vehicles.

Possible Energy Revenue-Raising Proposals

One issue for any energy tax incentive legislation would be whether revenue offsets would be included. Senator Reid's natural gas vehicles bill would have been offset by an increase in the Oil Spill Liability Trust Fund tax. Since this revenue-raising proposal proved to be controversial last year, alternative revenue offsets may be considered in the future.

Other revenue raisers proposed in 2009 and 2010 would have targeted the oil and gas industry, including proposals that would have affected dual capacity taxpayers, intangible drilling costs, and the domestic manufacturing deduction for U.S. oil and gas production.

Trade

The 112th Congress may consider several free trade agreements (FTAs). Such agreements have been completed with South Korea, Colombia and Panama. Congress also may address the issue of expired trade negotiating authority for the Administration. Finally, Congress may consider other trade issues, such as World Trade Organization (WTO) membership for Russia and potentially a new miscellaneous tariff bill.

The United States and South Korea completed negotiations on a revised trade agreement in December 2010 shortly after President Obama visited that country. The new U.S.-Korea FTA agreement includes language to increase the number of U.S.-made cars and trucks that would be eligible for entry into the Korean market and other changes announced on December 3, 2010. The Administration must submit the agreement to Congress for approval.

Typically, an FTA is subject only to an up-or-down vote in Congress under a process known as Trade Promotion Authority (TPA), sometimes referred to as "fast track" authority. TPA is a mechanism that allows the Administration to negotiate with a trading partner an agreement that will not then be subject to amendment by Congress. However, Congress must pass TPA authorizing the Administration to negotiate under these terms and voluntarily relinquish the power to amend a submitted FTA. Currently TPA is not in force, and the Obama Administration may seek or need to seek TPA renewal before submitting an FTA to Congress.

With regard to trade in the Pacific rim, the Obama Administration currently is working on a multinational agreement called the Trans-Pacific Strategic Economic Partnership (TPP). The negotiations involve Australia, New Zealand, Vietnam, Chile, Malaysia, and Brunei; Japan may join the talks as well. The United States and Australia already have a bilateral FTA that entered into force on January 1, 2005. TPP negotiations are expected to continue through 2011.

In 2010 Congress approved a miscellaneous tariff bill (P.L. 111-227), which temporarily eliminated or reduced U.S. import tariffs on a wide variety of goods or parts that typically are not manufactured domestically. On November 24, 2010, the House Ways and Means Committee circulated a discussion draft of a new miscellaneous tariff bill containing duty reductions on more than 300 products.

Expiring Business Tax Provisions

The 2010 Tax Relief Act reinstated and extended a number of business tax provisions that had expired at the end of 2009, including the research credit, CFC look-through, Subpart F exception for active financing income, and depreciation rules for leasehold improvements. The 2010 Act extended these provisions through the end of 2011.

The President's budget for FY 2012 is expected to propose extending many of the expiring tax provisions, as noted above. The House and Senate may consider legislation addressing specific expiring business tax provisions later this year.

There have been various attempts to make a review of expiring tax provisions a statutory requirement. Most recently, Senate Finance Committee Chairman Baucus proposed requiring such a review. The statutory requirements of the review would be extensive and would include an explanation of each tax expiring tax provision and any relevant context under which it was first enacted, the intended purpose, and an analysis of the overall success in achieving its intended purpose. House Ways and Means Chairman Camp has expressed an interest in reviewing the merits of expiring tax provisions as well.

In addition to the provisions mentioned above, the 2010 Tax Relief Act extended numerous other provisions, including:

- Indian employment tax credit
- New markets tax credit
- Railroad track maintenance credit
- Mine rescue team training credit
- Employer wage credit for employees who are active duty members of the uniformed services
- Seven-year recovery period for motorsports entertainment complexes
- Accelerated depreciation for business property on an Indian reservation
- Enhanced charitable deduction for contributions of food inventory
- Enhanced charitable deduction for contributions of book inventories to public schools
- Enhanced charitable deduction for corporate contributions of computer inventory for educational purposes
- Election to expense mine safety equipment
- Special expensing rules for certain domestic film and television productions
- Expensing of "Brownfields" environmental remediation costs
- Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico
- Modification of tax treatment of certain payments to controlling exempt organizations
- Treatment of certain dividends of a regulated investment company (RIC)
- RIC qualified investment entity treatment under FIRPTA
- Basis adjustment to stock of S corporations making charitable contributions of property
- Empowerment zone tax incentives
- Tax incentives for investment in the District of Columbia

Other Legislation

Tax Treaties

New Tax Treaties and Protocols in Process

Two new U.S. treaties/protocols entered into force in 2010 – a protocol updating the 1982 U.S. tax treaty with New Zealand, and a new tax treaty with Malta.

New Zealand Protocol

On November 12, 2010, the Treasury Department announced the entry into force of the New Zealand protocol, which had been signed on December 1, 2008. The changes made in the protocol bring the treaty closer to conformity with other, more recently concluded U.S. tax treaties and current U.S. tax treaty policy.

The New Zealand protocol incorporates updated limitation on benefits ("LOB") and exchange of information articles, as well as rules regarding income derived through an entity that is fiscally transparent. The new protocol also makes several important changes to the withholding rates on dividends (0%, 5%, or 15%, depending on ownership and other requirements); interest (generally 10%, and 0% in certain limited situations, or 15% for certain contingent interest payments); and royalties (5%).

With respect to taxes withheld at source (e.g., taxes imposed on dividends, interest, and royalties), the protocol's provisions apply to amounts paid or credited on or after January 1, 2011. With respect to all other U.S. taxes, the protocol has effect in the United States for tax periods beginning on or after January 1, 2011; with respect to all other New Zealand taxes, the protocol has effect for tax periods beginning on or after April 1, 2011.

Malta Treaty

On November 23, 2010, the Treasury Department announced the entry into force of the U.S.-Malta Treaty, which had been signed in August 2008. The new treaty restored a bilateral treaty relationship between the United States and Malta that had ended in 1995 when the United States terminated the prior treaty. The U.S.-Malta Treaty includes a restrictive LOB article and reduces the tax withheld at source on dividends (5% or 15%, depending on ownership, or 0% for certain pension funds); interest (10% generally but 15% for contingent interest); and royalties (10%).

With respect to taxes withheld at source (e.g., taxes imposed on dividends, interest, and royalties), the treaty's provisions apply to amounts paid or credited on or after January 1, 2011. For all other taxes, the treaty generally will have effect for tax years beginning on or after such date.

Pending Agreements

The United States signed new income tax treaties with Hungary and Chile during 2010. The Senate is expected to hold hearings on these treaties, along with others, in 2011.

Hungary Treaty

The U.S.-Hungary Treaty was signed on February 4, 2010, and sent to the Senate on November 15, 2010. It will replace the 1979 treaty currently in effect. The principal focus of the new treaty is the addition of an LOB article that is consistent with other recent U.S. treaties. The U.S.-Hungary Treaty also provides for an exemption from tax withheld at source for royalties and interest (except contingent interest, which is subject to a 15% tax rate). Unlike newer treaties with other EU countries, the U.S.-Hungary Treaty does not contain an exemption from tax for certain parent/subsidiary dividends.

Chile Treaty

The first U.S.-Chile Treaty was signed on February 4, 2010, but has not yet been sent to the Senate. It represents only the second U.S. income tax treaty with a South American country (after the treaty with Venezuela, which was signed in 1999). The new U.S.-Chile Treaty is broadly based on the 2006 U.S. Model Income Tax Treaty, except that it has a more restrictive LOB article and higher rates of taxation of dividends, interest, and royalties than those in U.S. Model. Similar to the U.S.-Hungary Treaty, the U.S.-Chile Treaty does not provide for an exemption from tax for parent/subsidiary dividends.

Pending Protocols

The protocols to the U.S. treaties with Luxembourg and Switzerland that were signed in 2009 await ratification by the Senate. The Luxembourg protocol, which was sent to the Senate for advice and consent on November 15, 2010, is aimed at updating the exchange of information provision in the existing U.S.-Luxembourg Treaty. The Swiss protocol also is primarily aimed at updating the exchange of information provision and also includes a requirement for binding arbitration for double tax disputes that are not resolved by agreement between the competent authorities of the two countries.

It has been widely reported that the United States and Switzerland have agreed to return to the negotiating table within two years of the signing of the Swiss protocol, which occurred in 2009; however, it is not expected that discussions will take place prior to the entry into effect of the pending protocol. Although the details of the agreement have not been made public, it is expected that among the items to be discussed are possible elimination of tax withheld at source on certain parent/subsidiary dividends and a potential revision to the LOB article to be more in line with recent U.S. tax treaties that have tightened the requirements for eligibility.

Agreements in Negotiation

Poland Treaty

Treasury is actively pursuing renegotiation of the 1974 U.S.-Poland Treaty, the only remaining U.S. tax treaty with a jurisdiction often used as an intermediary jurisdiction for holding and finance companies that lacks a robust LOB article. A round of negotiations was held in June 2010, and according to Treasury, negotiations on the treaty are "substantially complete." This agreement may be ready to be submitted to the Senate along with the other pending agreements by the time of the next Senate hearing on treaties, expected this year.

Other Treaties

The United States also has entered into negotiations with Spain. A second round of negotiations was completed in December and a third round is expected in the summer of 2011. Negotiations currently are taking place with the United Kingdom, pursuant to an agreement between the two countries to meet periodically regarding treaty matters. Agreement for a new or revised treaty with Norway is substantially complete. Negotiations are underway with Brazil and Colombia. Negotiations apparently have stalled with Israel and South Korea.

Discussions are underway with Venezuela and the Netherlands Antilles, and early discussions are underway with Vietnam and Malaysia. Treasury has indicated that it has not yet seen that a case has been made by the business community for a treaty with Singapore or Hong Kong.

Information Exchange Agreement

As part of Treasury's continued effort to expand the network of countries that have adequate tax information exchange agreements with the United States, the Treasury, on November 30, 2010, announced a new tax information exchange agreement between the United States and Panama. Upon entry into force, the new tax information exchange agreement will permit the United States and Panama to seek information from each other on all types of national taxes in both civil and criminal matters for tax years beginning on or after November 30, 2007. Information exchanged pursuant to the agreement will be used for tax purposes, although the information also may be used for other purposes as otherwise permitted under bilateral agreements.

U.S./Canada MOU on Arbitration Procedures

On November 26, 2010, the Competent Authorities of Canada and the United States released an important Memorandum of Understanding (MOU) regarding the conduct of mandatory binding arbitration proceedings under the mutual agreement procedure (MAP) of the Convention Between Canada and the United States of America With Respect to Taxes on Income and on Capital (the "Treaty"). The MOU not only establishes the procedures for handling arbitration cases, but also signals that the United States and Canada have resolved their differences regarding the scope of the Treaty's arbitration provision, the types of cases eligible for arbitration, and the manner in which issues will be resolved in arbitration proceedings.

New U.S. Model Treaty, Other Guidance

Treasury has announced that it is planning to publish a new model treaty, which would supersede the existing U.S. Model Treaty that went into effect in 2006. The 2010-2011 Treasury-IRS Priority Guidance Plan includes a project to provide guidance on issues under income tax treaties, including beneficial ownership.

Currently, the only guidance on treaty interpretation equivalent to regulations is the Treasury Technical Explanation that accompanies the submission of a treaty or protocol to the U.S. Senate during the ratification process. There is no procedure for modifying a treaty explanation to correct errors or reflect the most recent thinking of the IRS or Treasury. Treasury Technical Explanations are accorded limited weight by the courts, although more so in the exceptional cases where the treaty partner has indicated its acceptance of the U.S. interpretations (such as in the case of the Fifth Protocol to the U.S.-Canada Treaty). In addition, the 2010-2011 Priority Guidance Plan includes guidance updating Rev. Proc. 2006-54, which provides procedures for requesting Competent Authority assistance under tax treaties.

Both the model treaty and a pending regulation project offer opportunities for businesses to provide input to the government on ways to improve treaty guidance as well as to affect the future direction of U.S. tax treaty policy. Some areas on which comments could be offered are concepts of beneficial ownership; application of fiscal transparency rules beyond the treatment of dividends, interest, and royalties (including the impact of hybrid entity structures on accessing treaty benefits for business profits and reductions in the branch profits tax); and improvements to the LOB articles.

Trends in U.S. Tax Treaty Policy

The United States is expected to continue to strive for effective anti-treaty-shopping protection in its treaties. Such policies include LOB articles and monitoring the use of U.S. tax treaties by inverted companies. Other priorities include strong exchange of information commitments, modernization of the treatment of cross-border retirement plans, and the personal services articles of treaties (mainly, the policy of eliminating the independent personal services article as being redundant of the business profits article). In addition, Treasury likely will continue its recent policy of including binding arbitration as a means of deciding Competent Authority cases that otherwise are unresolved.

State Tax Legislation

While some stakeholders saw opportunity for legislation following the election of the 111th Congress and a new President, little action occurred on state tax issues directly addressed by proposed federal legislation. However, the results of the 2010 midterm election may affect consideration of certain issues. Because some state tax issues may be more efficient to address at the federal level or, more commonly, impractical to remedy at the state level, federal legislation on state tax issues will remain a focal point of both businesses and state and local governments.

Nexus (Jurisdictional) Issues

During the last Congress, a bill was introduced that would have established a bright-line "physical presence" standard for imposition of state and local business taxes and would have expanded existing protections under Public Law 86-272 for in-state sales solicitation activities.

Legislation also was introduced in the last Congress that would have granted states the authority to require sales and use tax collection by "remote sellers," i.e., "non-nexus" entities such as Internet and catalog sellers. To gain this collection authority, states would have to adopt and conform to the Streamlined Sales and Use Tax Agreement, which currently has 24 full and associate member states.

Some states have sought alternative, or supplemental, means of taxing remote sales in the absence of action on federal legislation. These state actions have included adoption of "vendor presumption" and "affiliate nexus" provisions designed to require tax collection under asserted nexus, and "notice and reporting" legislation designed to require remote sellers to report on their sales to in-state residents.

Nonresident Withholding

A House bill introduced in April 2009 would have provided a 30-day threshold for state taxation of a nonresident employee's income as well as for the requirement to withhold taxes from the nonresident employee's wages. The proposal is estimated to result in minimal revenue impact to most states, since although states would lose some revenue through reduced nonresident withholding, these losses would be offset in whole or in part by residents claiming less credits for taxes paid to other states. However, some states, such as New York, have objected because they would lose a more sizable amount under the proposal due to employee travel patterns.

In an effort to achieve consensus, business interests have been working with state governmental organizations on a similar proposal that would be adopted voluntarily by the states, as reciprocal agreements. Because the proposal would create the desired effect only if adopted uniformly and universally by the states, business proponents are expected to continue to seek federal pre-emption in this area.

Industry "Non-Discrimination"

A number of proposals were introduced in the 111th Congress to bar certain deemed "discriminatory" taxation by state and local governments. Such proposals generally impact specific industries, such as the cell phone, mobile wireless device, video, and automobile leasing industries. Of these proposals, the cell phone tax bill was approved in late 2010 by the House Judiciary Commercial and Administrative Law Subcommittee, but no further action was taken before Congress adjourned.

Other State Issues

Because states continue to assert expanded taxing authority in a changing economy, businesses continue to seek redress in a variety of forums, including the ultimate arbiter on interstate commerce, the U.S. Congress. Examples of new areas for which federal legislation may be sought include the taxation of digital goods and services and the sourcing of Voice over Internet Protocol receipts. Further, with the Internet Tax Freedom Act set to expire on November 1, 2014, it is likely that proponents will seek a permanent extension, and possibly modifications, of the Act in the new Congress. It is likely that an already crowded field of state tax issues brought before the last Congress will continue to grow in the 112th Congress.

Other Legislation

FAA Reauthorization

On December 22, 2010, President Obama signed into law a three-month extension of the Federal Aviation Administration (FAA) programs and aviation excise taxes. That short-term extension of the current aviation program and taxes, which is scheduled to expire on March 31, 2011, is intended to give Congress more time to consider a multi-year reauthorization. As part of a multi-year reauthorization bill, Congress is considering changes to the aviation trust fund taxes that fund the FAA program.

The extension was the 17th temporary measure passed by Congress since 2007. The legislation extended numerous aviation-related taxes, including the 21.8-cents-per-gallon tax on aviation-grade kerosene used by general aviators and the 7.5-percent tax on ticket purchases.

Highway Reauthorization

The House and Senate in 2011 may consider new multi-year federal highway program reauthorization legislation. Congress last year approved a temporary extension of federal highway and mass transit programs through March 4, 2011. Highway reauthorization legislation could address tax issues including existing federal fuel excise taxes.

Technical Corrections

A House bill was introduced in 2009 to provide technical corrections to various tax bills enacted in recent years, but no action was taken by Congress. The House Ways and Means Committee and Senate Finance Committee may consider a new technical corrections measure this year.

What this means for your business

The stakes for the business community are high at a time when concerns over high federal budget deficits could open the door to significant tax reform.

Unsustainable increases in federal deficits and continued uncertainty over future tax legislation continue to be a concern as the U.S. economy slowly recovers from the worst economic downturn since the Great Depression. Further growth in debt levels could impose significant economic harm, leading to increased interest rates, less private investment, and lower GDP growth.

In response to such economic pressures, there may be a growing push for Congress to consider adjustments to spending and tax policy that could affect your business, industry, or customers.

The stakes for the business community are high at a time when concerns over high federal budget deficits could open the door to significant tax reform. There is an increasing recognition on Capitol Hill that the United States has one of the highest corporate tax rates in the world, and that U.S. tax laws place American businesses outside the international norms enjoyed by foreign competitors. The next two years could signal the start of long-anticipated reforms to overhaul U.S. tax laws and improve the global competitiveness of American companies.

It will be critical for the business community both to monitor and participate in the legislative process as it unfolds in 2011. Business leaders need to have an active voice in shaping legislation and share their knowledge of how best to promote economic growth and reform U.S. tax laws.

Appendix A

Congressional Budget Process

Congressional hearings on the President's budget proposals typically take place in February and March, after which Congress generally adopts a budget plan ("budget resolution") that provides an overall framework for consideration of subsequent tax and spending legislation for the budget period.

The Obama Administration has announced that it will submit a proposed federal budget for FY 2012 at least one week after the statutory due date of the first Monday in February (February 7, 2011). The statutory deadline for Congress to pass a budget resolution for FY 2012 is April 15, but this date often has slipped in the past. Because a budget resolution binds only Congress, it does not require the President's approval.

Congress last year did not approve a budget resolution. On January 5, 2011, the House adopted a rule on granting Budget Committee Chairman Ryan authority to set non-mandatory spending levels for the remainder of FY 2011. Proposed spending above the level set by Chairman Ryan would be subject to a procedural "point of objection" vote in the House. No similar authority exists for Senate Budget Committee Chairman Conrad.

Spending and revenue levels for FY 2012 will be set by the full House and Senate, assuming agreement on a joint budget resolution can be reached between the Republican-controlled House and the Democratic-led Senate. If no final budget resolution is adopted, each chamber could pass separate budget resolutions with different spending and revenue targets. Differences between the House and Senate ultimately would need to be resolved in specific legislation funding federal departments and agencies for the government's new fiscal year that starts on October 1, 2011.

Budget Reconciliation Process

Originally intended to apply to legislation that would reduce federal budget deficits, the reconciliation process at times has facilitated consideration of other legislation that otherwise would be faced with filibusters or other procedural delays. Reconciliation bills receive expedited consideration and have special procedural protections that facilitate passage. In the Senate, reconciliation bills cannot be filibustered and require a simple majority (i.e., 51 votes) to pass.

At the same time, there are important limitations associated with budget reconciliation bills. Tax cuts enacted as part of a reconciliation bill generally must "sunset" at the end of the budget period unless offset in future years. For example, the 2001 and 2003 Bush-era tax rate reductions were enacted using budget reconciliation, and therefore were set to expire at the end of 2010 until Congress last year extended them through the end of 2012.

It is unclear at this writing whether the House and Senate might consider use of the budget reconciliation process this year. The process in recent years has been utilized most often when one party controls both the White House and both chambers of Congress, but the budget reconciliation process could be useful if there is a strong desire to enact significant deficit reduction legislation.

PAYGO

Congress last year passed a pay-as-you-go law ("PAYGO") generally requiring tax increases or reductions in permanent spending to offset the cost of tax cuts or new mandatory spending programs. The PAYGO statute has several significant exceptions, including an exemption for the cost of making Bush-era tax rate reductions permanent for families with incomes below $250,000 ($200,000 for individuals). In addition, Congress can waive the PAYGO law by declaring specific spending or tax reductions to be emergency legislation. While part of the 2010 Tax Relief Act was exempted from PAYGO, the remaining cost of last year's $858 billion package was declared an emergency and hence was not subject to the offset requirement.

While not affecting the PAYGO statute, the House on January 5, 2011, adopted a new "cut-as-you-go" House rule that requires any bill that increases mandatory spending to be offset by spending reductions and not by tax increases. The new House rule provides an exception for certain measures designated as emergency under the statutory PAYGO Act. The rule does not require tax increases to offset tax reductions. No similar rule exists in the Senate.

Appendix B

Senators up for Election in 2012

Democrats	Republicans
Akaka, Daniel K. (D-HI)	Barrasso, John (R-WY)
Bingaman, Jeff (D-NM)	Brown, Scott P. (R-MA)
Brown, Sherrod (D-OH)	Corker, Bob (R-TN)
Cantwell, Maria (D-WA)	Ensign, John (R-NV)
Cardin, Benjamin L. (D-MD)	Hatch, Orrin G. (R-UT)
Carper, Thomas R. (D-DE)	Hutchison, Kay Bailey (R-TX)**
Casey, Robert P., Jr. (D-PA)	Kyl, Jon (R-AZ)
Conrad, Kent (D-ND)**	Lugar, Richard G. (R-IN)
Feinstein, Dianne (D-CA)	Snowe, Olympia J. (R-ME)
Gillibrand, Kirsten E. (D-NY)	Wicker, Roger F. (R-MS)
Klobuchar, Amy (D-MN)	
Kohl, Herb (D-WI)	
Manchin, Joe, III (D-WV)	
McCaskill, Claire (D-MO)	
Menendez, Robert (D-NJ)	
Nelson, Ben (D-NE)	
Nelson, Bill (D-FL)	
Stabenow, Debbie (D-MI)	
Tester, Jon (D-MT)	
Webb, Jim (D-VA)	
Whitehouse, Sheldon (D-RI)	

Independents*
Lieberman, Joseph I. (I-CT)**
Sanders, Bernard (I-VT)

*Currently caucus with Senate Democrats

** Not running for re-election

Source: United States Senate website, http://www.senate.gov

Appendix C

Selected Federal Tax Expenditures

Tax Expenditures	5-Year Tax Expenditure Estimate ($ billions)
Corporations	
Deferral of active income of controlled foreign corporations	70.6
Exclusion of interest on public purpose State and local government bonds	45.3
Deduction for income attributable to domestic production activities	43.2
Inventory property sales source rule exception	38.0
Depreciation of equipment in excess of the alternative depreciation system	37.1
Inclusion of income arising from business indebtedness discharged by the reacquisition of a debt instrument	28.8
Credit for low-income housing	27.0
Expensing of research and experimental expenditures	25.6
Last-in, first-out inventory method ("LIFO")	20.0
Reduced rates on first $10,000,000 of corporate taxable income	15.9
Exclusion of investment income on life insurance and annuity contracts	12.9
Credit for increasing research activities (section 41)	12.0
Special treatment of life insurance company reserves	12.2
Deferral of gain on non-dealer installment sales	11.5
Deferral of gain on like-kind exchanges	10.0
Deduction for charitable contributions to health organizations	9.4
Credits for electricity production from renewable resources (section 45)	8.5

Note: The methodology used by Joint Committee on Taxation staff to estimate tax expenditures differs from the methodology used to estimate revenue-raising proposals.

Tax Expenditures	5-Year Tax Expenditure Estimate ($ billions)
Individuals	
Exclusion of employer contributions for health care, health insurance premiums, and long-term care insurance premiums	659.4
Deduction for mortgage interest on owner-occupied residences	484.1
Reduced rates of tax on dividends and long-term capital gains	402.9
Net exclusion of pension contributions and earnings for defined benefit plans	303.2
Deduction of non-business State and local government income taxes, sales taxes, and personal property taxes	237.3
Earned income credit	268.8
Net exclusion of pension contributions and earnings for defined contribution plans	212.2
Exclusion of capital gains at death	194.0
Deduction for charitable contributions, other than for education and health	182.4
Exclusion of Medicare Benefits: Hospital Insurance (Part A)	175.8
Exclusion of untaxed Social Security and railroad retirement benefits	173.0
Exclusion of benefits provided under cafeteria plans	163.1
Exclusion of investment income on life insurance and annuity contracts	132.1
Exclusion of Medicare Benefits: Supplementary medical insurance (Part B)	124.5
Credit for children under age 17	121.9
Deduction for property taxes on real property	120.9
Exclusion of interest on public purpose State and local government bonds	116.3
Exclusion of capital gains on sales of principal residences	86.3
Individual retirement arrangements: Traditional IRAs	85.6
Net exclusion of pension contributions and earnings for plans covering partners and sole proprietors ("Keogh plans")	81.1
Deduction for medical expenses and long-term care expenses	77.6

Tax Expenditures	5-Year Tax Expenditure Estimate ($ billions)
Exclusion of miscellaneous fringe benefits	38.7
Credits for tuition for post-secondary education: Hope and Lifetime Learning Credits	37.8
Exclusion of Medicare Benefits: Prescription drug insurance (Part D)	35.1
Carryover basis of capital gains on gifts	32.1
Deduction for charitable contributions to educational institutions	31.5
Deduction for health insurance premiums and long-term care insurance premiums by the self employed	27.9
Exclusion of foreign earned income: Salary	27.1
Exclusion of veterans' disability compensation	27.0
Exclusion of benefits and allowances to armed forces personnel	24.7
Individual retirement arrangements: Roth IRAs	23.9
Credits and subsidies for participating in health insurance exchanges	22.4
Exclusion of employer-paid transportation benefits	21.8
Depreciation of rental housing in excess of alternative depreciation system	21.0
Exclusion of cash public assistance benefits	20.8
Exclusion of income earned by voluntary employees' beneficiary associations	20.2
Exclusion of workers' compensation benefits (disability and survivors payments)	19.5

Tax Expenditures	5-Year Tax Expenditure Estimate ($ billions)
Tax credit for small businesses purchasing employer insurance	19.2
Deduction for income attributable to domestic production activities	18.9
Exclusion of employment benefits for premiums on accident and disability insurance	17.8
Exclusion of workers' compensation benefits (medical benefits)	17.4
Deduction for charitable contributions to health organizations	15.9
Credit for child and dependent care and exclusion of employer-provided child care	13.1
Exclusion of medical care and TRICARE medical insurance for military dependents, retirees, and retiree dependents not enrolled in Medicare	13.1
Additional standard deduction for the blind and the elderly	12.4
Exclusion of scholarship and fellowship income	11.9
Exclusion of interest on State and local government qualified private activity bonds for private nonprofit and qualified public educational facilities	11.5
Parental personal exemption for students aged 19 to 23	10.4
Build America bonds	9.1

Source: Joint Committee on Taxation. Estimates of Federal Tax Expenditures for Fiscal Years 2010-2014. Washington: GPO 2010. Print

Appendix D

Selected Potential Revenue-Raising Proposals

Proposals	Source	10-Year Revenue Estimate ($ millions)
International		
Exempt active foreign dividends from U.S. taxation (version of territorial tax system with expense allocation)	CBO	76,200
Tax the worldwide income of U.S. corporations as earned	CBO	65,200
Eliminate the source-rules exception for exports	CBO	53,700
Reform foreign tax credit: determine the credit on a pooling basis	Treasury	49,212
Defer deduction of interest expense related to deferred income	Treasury	35,527
Reform business entity classification rules for foreign entities	Treasury	31,053
Tax currently excess returns associated with transfers of intangibles offshore	Treasury	10,223
Modify tax rules for dual capacity taxpayers	Treasury	8,236
Limit treaty benefits for certain deductible payments	House	7,500
Combat under-reporting of income through the use of accounts and entities in offshore jurisdictions	Treasury	7,402
Repeal worldwide interest allocation rules	House	6,000
Disallow the deduction for excess non-taxed reinsurance premiums paid to affiliates	Treasury	2,333
Limit earnings stripping by expatriated entities	Treasury	1,667
Prevent the avoidance of dividend withholding taxes	Treasury	1,400
Repeal 80/20 company rules	Treasury	950
Limit shifting of income through intangible property transfers	Treasury	474
Prevent repatriation of earnings in certain cross-border reorganizations	Treasury	410

Proposals	Source	10-Year Revenue Estimate ($ millions)
Tax Accounting and Corporate		
Extend the period for recovering the cost of equipment purchases	CBO	267,500
Repeal section 199 deduction	CBO	136,200
Repeal "last-in, first-out" method of accounting	Treasury	75,312
End the expensing of exploration and development costs for extractive industries	CBO	44,900
Set the corporate tax rate at 35 percent for all corporations	CBO	30,500
Repeal the low-income housing credit	CBO	29,200
Tax large credit unions in the same way as other thrift institutions	CBO	12,600
Repeal "lower of cost or market" inventory valuation method	CBO	9,500
	Treasury	7,989
Tax the income earned by public electric utilities	CBO	6,200
Disallow tax-free conversions of large C corporations to S corporations	CBO	500
Repeal gain limitation for dividends received in reorganization exchanges	Treasury	460
Deny deduction for punitive damages	Treasury	315
Pass-through Entities		
Tax “carried interest” income of partners for performing investment management services treated as ordinary income	Treasury	28,596
	House	24,616
Financial Services		
Impose a financial crisis responsibility fee	Treasury	90,000
Tax the federal home loan banks under the corporate income tax	CBO	13,500
Require ordinary treatment of income from day-to-day dealer activities for certain dealers of equity options and commodities	Treasury	2,481
Charge transaction fees to fund the commodity futures trading commission	CBO	1,255
Charge for examinations of state-chartered banks	CBO	1,037

Proposals	Source	10-Year Revenue Estimate ($ millions)
Employee Benefits		
Tax Social Security and railroad retirement benefits like defined-benefit pensions	CBO	373,200
Include employer-paid benefits for income-replacement insurance in employees' taxable income	CBO	225,900
Eliminate the tax exclusion for employment-based life insurance	CBO	25,200
End the preferential treatment of dividends paid on stock held in employee stock ownership plans	CBO	13,300
Increase Federal employee contributions to pension plans	CBO	8,900
Consolidate and simplify different types of defined-contribution retirement plans	CBO	1,200
Employment Taxes		
Increase the maximum taxable earnings for the Social Security payroll tax:	CBO	
Tax 92 percent of earnings		688,500
Tax 91 percent of earnings		588,500
Tax 90 percent of earnings		503,400
Increase certainty with respect to worker classification	Treasury	6,933
Require self-employed individuals and employees to pay the same amounts in payroll taxes	CBO	2,900
Expand the Medicare payroll tax to include all state and local government employees	CBO	2,400
Energy		
Repeal domestic manufacturing deduction for oil and gas production	Treasury	14,789
Repeal expensing of intangible drilling costs	Treasury	10,924
Repeal percentage depletion	Treasury	9,653
Levy tax on certain offshore oil and gas production	Treasury	5,300
Impose fees for use of the inland waterway system	CBO	4,712
Increase the amortization period for geological and geographical costs to seven years	Treasury	1,003
Repeal capital gains treatment for coal royalties	Treasury	626
Repeal expensing of coal exploration and development costs	Treasury	385
Repeal passive loss exemption for working interests in oil and gas properties	Treasury	217
Repeal deduction for tertiary injectants	Treasury	57

Proposals	Source	10-Year Revenue Estimate ($ millions)
Excise Taxes		
Impose an 'upstream' price on emissions of greenhouse gases	CBO	881,800
Increase excise taxes on motor fuels:	CBO	
50 cent increase		604,800
25 cent increase		305,100
Reinstate the superfund taxes	CBO	19,800
	Treasury	19,192
Impose a tax on emissions of nitrogen oxides	CBO	18,400
Impose a tax on the emissions of sulfur dioxide	CBO	3,000
Tax Administration		
Use an alternative measure of inflation to index some portions of the tax code	CBO	89,600
Individual		
Limit the tax benefit of itemized deductions to 15 percent	CBO	1,320,700
Eliminate the current itemized deduction for state and local taxes	CBO	861,900
Raise all ordinary tax rates, AMT rates, and dividend and capital gain rates by 1 percentage point	CBO	626,000
Cap the deduction for state and local taxes at 2 percent of adjusted gross income	CBO	625,700
Raise all ordinary tax rates and AMT rates by 1 percentage point	CBO	608,900
Raise all tax rates on ordinary income by 1 percentage point	CBO	454,800
Convert the mortgage interest deduction to a credit	CBO	387,600
Limit the tax rate at which itemized deductions reduce tax liability to 28 percent	Treasury	289,260
Reinstate the 39.6% rate	Treasury*	327,368
Raise the tax rate on ordinary taxable income over $1 million for joint filers ($500,000 for others) by 5 percentage points	CBO	222,600
Curtail the deduction for charitable giving	CBO	221,500
Raise the top four ordinary tax rates by 1 percentage point	CBO	200,000
Reinstate the limitation on itemized deductions for taxpayers with income over $250,000 (married) and $200,000 (single)	Treasury*	155,322
Raise the top three ordinary tax rates by 1 percentage point	CBO	119,400

Proposals	Source	10-Year Revenue Estimate ($ millions)
Impose a 20% rate on dividends and capital gains for taxpayers with income over $250,000 (married) and $200,000 (single)	Treasury*	105,364
Eliminate the child tax credit	CBO	113,700
Raise the top two ordinary tax rates by 1 percentage point	CBO	98,800
Raise the top ordinary tax rate by 1 percentage point	CBO	73,500
Include all income earned abroad by U.S. citizens in taxable income	CBO	71,200
Reinstate the personal exemption phaseout (PEP) for taxpayers with income over $250,000 (married) and $200,000 (single	Treasury*	53,167
Reduce gradually the maximum mortgage on which interest can be deducted from $1.1 million to $500,000	CBO	41,400
Reinstate the 36% rate for taxpayers with income over $250,000 (married) and $200,000 (single)	Treasury*	37,071
Eliminate tax subsidies for child and dependent care	CBO	26,600
Lower the age of dependent eligibility for the child tax credit to 13	CBO	23,500
Limit deductions for charitable gifts of appreciated assets to basis	CBO	22,500
Replace the tax exclusion for interest income on state and local bonds with a tax credit	CBO	19,800
Consolidate tax credits and deductions for education expenses	CBO	16,400
Eliminate the earned income tax credit for people who do not live with children	CBO	15,100
Eliminate the additional standard deduction for elderly and blind taxpayers	CBO	12,500
Include Social Security benefits in calculating the phase-out of the earned income tax credit	CBO	7,900
Require a minimum 10-year term for Grantor Retained Annuity Trusts (“GRAT”)	Treasury	4,448
Require consistent valuation for transfer and income tax purposes	Treasury	1,031

Proposals	Source	10-Year Revenue Estimate ($ millions)
Tax-Exempt Organizations and Bonds		
Limit the tax exemption for new bonds	CBO	23,000
Cap nonprofit organizations' outstanding stock of tax-exempt bonds	CBO	2,100
Tax qualified sponsorship payments to postsecondary sports programs	CBO	208
Eliminate the indexation of the volume cap for tax-exempt private-activity bonds	CBO	200
Insurance		
Include investment income from life insurance and annuities in taxable income	CBO	265,000
Eliminate the tax exclusion for employment-based life insurance	JCT	25,200
Expand pro rata interest expense disallowance for corporate-owned life insurance ("COLI")	Treasury	7,259
Modify dividends-received deduction for life insurance company separate accounts	Treasury	3,217
Permit partial annuitization of a non-qualified annuity contract	Treasury	956
Modify rules that apply to sales of life insurance contracts	Treasury	698

Source: Joint Committee on Taxation staff revenue estimates are used, except where noted. Treasury Department February 2010 revenue estimates are used where marked with an asterik (*).

References

Treasury

- Joint Committee on Taxation, JCX-7-10 R, "Estimated Budget Effects of the Revenue Provisions Contained in the President's Fiscal Year 2011 Budget Proposal," March 2010

CBO

- Congressional Budget Office, "Budget Options, volume 2," August 2009

House

- Joint Committee on Taxation, JCX-30-10, "Estimated Budget Effects of the Revenue Provisions Contained in H.R. 4213, the 'American Jobs and Closing Tax Loopholes Act of 2010,' Scheduled for Consideration by the House of Representatives," May 2010
- Joint Committee on Taxation, JCX-53-09, "Estimated Revenue Effects of the Revenue Provisions Contained in H.R. 3962, The 'Affordable Health Care for America Act,'" November 2009

PwC Legislative and Regulatory Services Team

Washington National Tax Services

Lindy Paull
lindy.paull@us.pwc.com
202 414 1579

Bill Archer
bill.archer@us.pwc.com
202 414 1510

George Forster
george.forster@us.pwc.com
202 414 1400

Don Longano
don.longano@us.pwc.com
202 414 1647

Ed McClellan
ed.mcclellan@us.pwc.com
202 414 4404

Mark McConaghy
mark.mcconaghy@us.pwc.com
202 414 1700

Brian Meighan
brian.meighan@us.pwc.com
202 414 1790

Bob Shapiro
bob.shapiro@us.pwc.com
202 414 1600

Don Carlson
donald.g.carlson@us.pwc.com
202 414 1385

Larry Campbell
larry.campbell@us.pwc.com
202 414 1477

Scott McCandless
scott.mccandless@us.pwc.com
202 414 4460

Andrew Prior
andrew.prior@us.pwc.com
202 414 4572

National Economics and Statistics

Peter Merrill
peter.merrill@us.pwc.com
202 414 1666

Drew Lyon
drew.lyon@us.pwc.com
202 414 3865

Jessica Pollner
jessica.pollner@us.pwc.com
202 414 1380

Jack Rodgers
jack.rodgers@us.pwc.com
202 414 1646

Lin Smith
linden.c.smith@us.pwc.com
202 414 4687

John Stell
john.l.stell@us.pwc.com
202 312 7583

Acknowledgments

This report represents the analysis and efforts of many individuals within PwC's Washington National Tax Services and other offices. This publication was produced under the direction of Larry Campbell. The text was prepared by a team of professionals, including Larry Campbell, Drew Lyon, John Stell, Phillip Galbreath, Geoff Jacobi, Scott McCandless, Steve Nauheim, Ferdinand Hogroian, Lisa Wamboldt, Brandon Alsup, Brian Gibree, and Barry Rickert.

Special thanks to George Forster, Lindy Paull, Brian Meighan, Don Longano, Drew Lyon, Ed McClellan, Dick Ruge, Don Carlson, Andrew Prior, and Lisa Wamboldt. We also would like to thank Mark Hidalgo, Roberto Rojas, and Carolyn Singh for their assistance.

pwc.com/wnts

Solicitation

This document contains information that is confidential and/or proprietary to PricewaterhouseCoopers LLP and may not be copied, reproduced, referenced, disclosed or otherwise utilized without obtaining express prior written consent from PricewaterhouseCoopers in each instance.

This document is provided by PricewaterhouseCoopers LLP for general guidance only and does not constitute the provision of legal advice, accounting services, investment advice, or professional consulting of any kind. The information provided herein should not be used as a substitute for consultation with professional tax, accounting, legal, or other competent advisers. Before making any decision or taking any action, you should consult a professional advisor who has been provided with all pertinent facts relevant to your particular situation. The information is provided "as is," with no assurance or guarantee of completeness, accuracy, or timeliness of the information, and without warranty of any kind, express or implied, including but not limited to warranties of performance, merchantability, and fitness for a particular purpose.

© 2011 PwC. All rights reserved. "PwC" and "PwC US" refer to PricewaterhouseCoopers LLP, a Delaware limited liability partnership, which is a member firm of PricewaterhouseCoopers International Limited, each member firm of which is a separate legal entity. This document is for general information purposes only, and should not be used as a substitute for consultation with professional advisors. DC-11-0085