SUMMARY OF TAX PROVISIONS IN
The American Taxpayer Relief Act of 2012
PRELIMINARY AND SUBJECT TO CHANGE

I. Permanent Extension of Tax Relief

Reductions in Individual Income Tax Rates

Permanently extend the 10% bracket. Under current law, the 10% individual income tax bracket expires at the end of 2012. Upon expiration, the lowest tax rate will be 15%. The bill extends the 10% individual income tax bracket for taxable years beginning after December 31, 2012.

This provision is estimated to cost[1] $442.641 billion over ten years.

Permanently extend the 25%, 28%, and 33% income tax rates for certain taxpayers. Under current law, the 25%, 28%, 33%, and 35% individual income tax brackets expire at the end of 2012. Upon expiration, the rates become 28%, 31%, 36%, and 39.6% respectively. The bill extends the 25%, 28%, 33% rates on income at or below $400,000 (individual filers), $425,000 (heads of households) and $450,000 (married filing jointly) for taxable years beginning after December 31, 2012.

This provision is estimated to cost $319.711 billion over ten years.[2]

Permanently repeal the Personal Exemption Phaseout for certain taxpayers. Personal exemptions allow a certain amount per person to be exempt from tax. Due to the Personal Exemption Phase-out ("PEP"), the exemptions are phased out for taxpayers with AGI above a certain level. The *Economic Growth and Tax Relief Reconciliation Act of 2001* (EGTRRA) repealed PEP for 2010. The *Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010* (TRUIRJCA) extended the repeal through 2012. The bill extends the repeal of PEP on income at or below $250,000 (individual filers), $275,000 (heads of households) and $300,000 (married filing jointly) for taxable years beginning after December 31, 2012.

The combined cost of this provision and the one described below is estimated to be $10.514 billion over ten years.[3]

Permanently repeal the itemized deduction limitation for certain taxpayers. Generally, taxpayers itemize deductions if the total deductions are more than the standard deduction amount. Since 1991, the amount of itemized deductions that a taxpayer may claim has been reduced, to the extent the taxpayer's AGI is above a certain amount. This limitation is generally known as the "Pease limitation." The EGTRRA repealed the Pease limitation on itemized deductions for 2010. The TRUIRJCA extended the repeal through 2012. The bill extends the repeal of the Pease limitation on income at or below

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[1] The Joint Committee on Taxation estimates the budgetary cost of tax provisions – reflecting both the revenue loss and outlay effects associated with those provisions – relative to current law. Where applicable, savings relative to current policy (extension of tax laws in effect during 2012) are noted in footnotes.

[2] The provision raises $396.889 billion relative to current policy.

[3] The provisions raise $152.186 billion relative to current policy.

$250,000 (individual filers), $275,000 (heads of households) and $300,000 (married filing jointly) for taxable years beginning after December 31, 2012.

The combined cost of this provision and the one described above is estimated to be $10.514 billion over ten years.[4]

Capital Gains and Dividends

Permanently extend the capital gains and dividend rates. Under current law, the capital gains and dividend rates for taxpayers below the 25% bracket is equal to zero percent. For those in the 25% bracket and above, the capital gains and dividend rates are currently 15%. These rates expire at the end of 2012. Upon expiration, the rates for capital gains become 10% and 20%, respectively, and dividends are subject to the ordinary income rates. The bill extends the current capital gains and dividends rates on income at or below $400,000 (individual filers), $425,000 (heads of households) and $450,000 (married filing jointly) for taxable years beginning after December 31, 2012. For income in excess of $400,000 (individual filers), $425,000 (heads of households) and $450,000 (married filing jointly), the rate for both capital gains and dividends will be 20%.

This provision is estimated to cost $289.920 billion over ten years.[5]

Tax Relief for Families and Children

Permanently extend marriage penalty relief. The bill extends the marriage penalty relief for the standard deduction, the 15% bracket, and the EITC for taxable years beginning after December 31, 2012.

This provision is estimated to cost $84.630 billion over ten years.

Permanently extend the expanded dependent care credit. The dependent care credit allows a taxpayer a credit for an applicable percentage of child care expenses for children under 13 and disabled dependents. The EGTRRA increased the amount of eligible expenses from $2,400 for one child and $4,800 for two or more children to $3,000 and $6,000, respectively. The EGTRRA also increased the applicable percentage from 30% to 35%. The bill extends the changes to the dependent care credit made by EGTRRA for taxable years beginning after December 31, 2012.

This provision is estimated to cost $1.791 billion over ten years.

Permanently extend the increased adoption tax credit and the adoption assistance programs exclusion. Taxpayers that adopt children can receive a tax credit for qualified adoption expenses. A taxpayer may also exclude from income adoption expenses paid by an employer. The EGTRRA increased the credit from $5,000 ($6,000 for a special needs child) to $10,000, and provided a $10,000 income exclusion for employer-assistance programs. The Patient Protection and Affordable Care Act of 2010 extended these benefits to 2011 and made the credit refundable. The bill extends for taxable years beginning after December 31, 2012, the increased adoption credit amount and the exclusion for employer-assistance programs as enacted in EGTRRA.

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[4] The provisions raise $152.186 billion relative to current policy.

[5] The provision raises $56.180 billion relative to current policy.

This provision is estimated to cost $5.580 billion over ten years.

Permanently extend the credit for employer expenses for child care assistance. The EGTRRA provided employers with a credit of up to $150,000 for acquiring, constructing, rehabilitating or expanding property which is used for a child care facility. The bill extends this provision for taxable years beginning after December 31, 2012.

This provision is estimated to cost $209 million over ten years.

Permanently extend the 2001 modifications to the child tax credit. Generally, taxpayers with income below certain threshold amounts may claim the child tax credit to reduce federal income tax for each qualifying child under the age of 17. The EGTRRA increased the credit from $500 to $1,000 and expanded refundability. The amount that may be claimed as a refund was 15% of earnings above $10,000. The bill extends this provision for taxable years beginning after December 31, 2012.

This provision is estimated to cost $354.493 billion over ten years.

Temporarily extend the 2009 modifications to the child tax credit. The *American Recovery and Reinvestment Act of 2009* (ARRA) provided that earnings above $3,000 would count towards refundability. The bill extends the ARRA child tax credit expansion for five additional years, through 2017.

This provision is estimated to cost $50.518 billion over ten years.

Temporarily extend third-child EITC. Under current law, working families with two or more children currently qualify for an earned income tax credit equal to 40% of the family's first $12,570 of earned income. The ARRA increased the earned income tax credit to 45% for families with three or more children and increased the beginning point of the phase-out range for all married couples filing a joint return (regardless of the number of children) to lessen the marriage penalty. The bill extends for five additional years, through 2017, the ARRA expansions that increased the EITC for families with three or more children and increased the phase-out range for all married couples filing a joint return.

This provision is estimated to cost $16.446 billion over ten years.

Education Incentives

Permanently extend expanded Coverdell Accounts. Coverdell Education Savings Accounts are tax-exempt savings accounts used to pay the higher education expenses of a designated beneficiary. The EGTRRA increased the annual contribution amount from $500 to $2,000 and expanded the definition of education expenses to include elementary and secondary school expenses. The bill extends the changes to Coverdell accounts for taxable years beginning after December 31, 2012.

This provision is estimated to cost $271 million over ten years.

Permanently extend the expanded exclusion for employer-provided educational assistance. An employee may exclude from gross income up to $5,250 for income and employment tax purposes per year of employer-provided education assistance. Prior to 2001, this incentive was temporary and only applied to undergraduate courses. The EGTRRA expanded this provision to graduate education and extended the provision for undergraduate and graduate education. The bill extends the changes to this provision for taxable years beginning after December 31, 2012.

This provision is estimated to cost $11.477 billion over ten years.

Permanently extend the expanded student loan interest deduction. Certain individuals who have paid interest on qualified education loans may claim an above-the-line deduction for such interest expenses up to $2,500. Prior to 2001, this benefit was only allowed for 60 months and phased-out for taxpayers with income between $40,000 and $55,000 ($60,000 and $75,000 for joint filers). The EGTRRA eliminated the 60-month rule and increased the income phase-out to $55,000 to $70,000 ($110,000 and $140,000 for joint filers). The bill extends the changes to this provision for taxable years beginning after December 31, 2012.

This provision is estimated to cost $9.676 billion over ten years.

Permanently extend the exclusion from income of amounts received under certain scholarship programs. Scholarships for qualified tuition and related expenses are excludible from income. Qualified tuition reductions for certain education provided to employees are also excluded. Generally, this exclusion does not apply to qualified scholarships or tuition reductions that represent payment for teaching, research, or other services. The National Health Service Corps Scholarship Program and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program provide education awards to participants on the condition that the participants perform certain services. The EGTRRA allowed the scholarship exclusion to apply to these programs. The bill extends the changes to this provision for taxable years beginning after December 31, 2012.

This provision is estimated to cost $1.501 billion over ten years.

Arbitrage rebate exception for school construction bonds. Under current law, issuers of tax-exempt bonds must rebate to the U.S. Treasury arbitrage (excess interest income) earned from the investment of tax-exempt bond proceeds in higher-yielding taxable securities. The calculation of excess interest income can be complex, and as a result, many governments incur large costs to comply with the requirements. To ease the burden on small issuers, the federal tax code exempts governments that issue a relatively small number of tax-exempt bonds in a given year from the requirement. In general, the small issuer rebate exception can only be used by state and local governments that issue less than $5 million in governmental and 501(c)(3) bonds annually. This exception is $10 million for bonds issued for qualified educational facilities. The EGTRRA increased the small-issuer arbitrage rebate exception for school construction from $10 million to $15 million. The bill extends the $15 million arbitrage rebate exception for school construction for taxable years beginning after December 31, 2012.

This provision is estimated to cost $72 million over ten years.

Tax-exempt private activity bonds for qualified education facilities. Under current law, proceeds from private activity bonds issued by a state or local government qualify as tax-exempt if 95% or more of the net bond proceeds are used for a qualified purpose as defined by the Internal Revenue Code. The EGTRRA expanded the definition of a private activity for which tax-exempt bonds may be issued to include bonds for qualified public educational facilities. Bonds issued for qualified educational facilities are not counted against a state's private-activity volume cap. Instead, these bonds have their own volume capacity limit equal to the lesser of $10 per resident or $5 million. The bill extends the allowance to issue tax-exempt private activity bonds for public school facilities for taxable years beginning after December 31, 2012.

This provision is estimated to cost $152 million over ten years.

Temporarily extend the American Opportunity Tax Credit. Created under the ARRA, the American Opportunity Tax Credit is available for up to $2,500 of the cost of tuition and related expenses paid during the taxable year. Under this tax credit, taxpayers receive a tax credit based on 100% of the first $2,000 of tuition and related expenses (including course materials) paid during the taxable year and 25% of the next $2,000 of tuition and related expenses paid during the taxable year. Forty percent of the credit is refundable. This tax credit is subject to a phase-out for taxpayers with adjusted gross income in excess of $80,000 ($160,000 for married couples filing jointly). The bill extends the American Opportunity Tax Credit for five additional years, through 2017.

This provision is estimated to cost $67.280 billion over ten years.

Other Provisions

Permanently extend tax relief for Alaska settlement funds. The EGTRRA allowed an election in which Alaska Native settlement trusts can elect to pay tax at the same rate as the lowest individual marginal rate, rather than the higher rates that generally apply to trusts. Beneficiaries of the trust do not pay tax on the distributions of an electing trust's taxable income. Finally, contributions by an Alaska Native corporation to an electing trust will not be deemed distributions to the corporation's shareholders. The bill extends the elective tax treatment for Alaska Native settlement trusts for taxable years beginning after December 31, 2012.

This provision is estimated to cost $46 million over ten years.

Permanently extend refund and tax credit disregard for means-tested programs

Current law ensures that the refundable components of the EITC and the Child Tax Credit do not make households ineligible for means-tested benefit programs and includes provisions stating that these tax credits do not count as income in determining eligibility (and benefit levels) in means-tested benefit programs, and also do not count as assets for specified periods of time. Without them, the receipt of a tax credit would put a substantial number of families over the income limits for these programs in the month that the tax refund is received. A provision enacted as part of the TRUIRJCA, disregarded all refundable tax credits and refunds as income for means-tested programs through 2012. The bill permanently extends the provision for any amount received after December 31, 2012.

A score for this provision will be provided by the Congressional Budget Office.

II. Permanent Individual Alternative Minimum Tax (AMT) Relief

Permanent AMT patch. Currently, a taxpayer receives an exemption of $33,750 (individuals) and $45,000 (married filing jointly) under the AMT. Current law also does not allow nonrefundable personal credits against the AMT. The bill increases the exemption amounts for 2012 to $50,600 (individuals) and $78,750 (married filing jointly) and indexes the exemption and phaseout amounts thereafter. The bill also allows the nonrefundable personal credits against the AMT. The bill is effective for taxable years beginning after December 31, 2011.

This provision is estimated to cost $1,815.6 billion over ten years.

III. Permanent Estate Tax Relief

Permanent estate, gift and generation skipping transfer tax relief. The EGTRRA phased-out the estate and generation-skipping transfer taxes so that they were fully repealed in 2010, and lowered the gift tax rate to 35 percent and increased the gift tax exemption to $1 million for 2010. In 2010, the TRUIRJCA set the exemption at $5 million per person with a top tax rate of 35 percent for the estate, gift, and generation skipping transfer taxes for two years, through 2012. The exemption amount was indexed beginning in 2012. The bill makes permanent the indexed TRUIRJCA exclusion amount and indexes that amount for inflation going forward, but sets the top tax rate to 40 percent for estates of decedents dying after December 31, 2012.

This provision is scored in combination with the two provisions below. Together these provisions are estimated to cost $396.068 billion over ten years.[6]

Portability of unused exemption. The TRUIRJCA allowed the executor of a deceased spouse's estate to transfer any unused exemption to the surviving spouse for estates of decedents dying after December 31, 2010 and before December 31 2012. The bill makes permanent this provision and is effective for estates for decedents dying after December 31, 2012.

Reunification. Prior to the EGTRRA, the estate and gift taxes were unified, creating a single graduated rate schedule for both. That single lifetime exemption could be used for gifts and/or bequests. The EGTRRA decoupled these systems. The TRUIRJCA reunified the estate and gift taxes. The bill permanently extends unification and is effective for gifts made after December 31, 2012.

IV. Tax Extenders

Individual Provisions

Deduction for certain expenses of elementary and secondary school teachers. The bill extends for two years the $250 above-the-line tax deduction for teachers and other school professionals for expenses paid or incurred for books, supplies (other than non-athletic supplies for courses of instruction in health or physical education), computer equipment (including related software and service), other equipment, and supplementary materials used by the educator in the classroom.

This provision is estimated to cost $406 million over ten years.

Mortgage Debt Relief. Under current law, taxpayers who have mortgage debt canceled or forgiven after 2012 may be required to pay taxes on that amount as taxable income. Under this provision, up to $2 million of forgiven debt is eligible to be excluded from income ($1 million if married filing separately) through tax year 2013. This provision was created in the Mortgage Debt Relief Act of 2007 to prevent the taxation of so-called "shadow income" from foreclosures and cancelled debts through 2010. It was extended through 2012 by the Emergency Economic Stabilization Act of 2008.

This provision is estimated to cost $1.327 billion over ten years.

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[6] These provisions save $19.132 billion relative to current policy.

Parity for exclusion from income for employer-provided mass transit and parking benefits. This provision would extend through 2013 the increase in the monthly exclusion for employer-provided transit and vanpool benefits from $125 to $240, so that it would be the same as the exclusion for employer-provided parking benefits.

This provision is estimated to cost $220 million over ten years.

Premiums for mortgage insurance deductible as interest that is qualified residence interest. The provision extends the ability to deduct the cost of mortgage insurance on a qualified personal residence. The deduction is phased-out ratably by 10% for each $1,000 by which the taxpayer's AGI exceeds $100,000. Thus, the deduction is unavailable for a taxpayer with an AGI in excess of $110,000. The bill extends this provision for two additional years, through 2013.

This provision is estimated to cost $1.297 billion over ten years.

Deduction for state and local general sales taxes. The bill extends for two years the election to take an itemized deduction for State and local general sales taxes in lieu of the itemized deduction permitted for State and local income taxes.

This provision is estimated to cost $5.538 billion over ten years.

Special rules for contributions of capital gain real property made for conservation purposes. The bill extends for two years the increased contribution limits and carryforward period for contributions of appreciated real property (including partial interests in real property) for conservation purposes.

This provision is estimated to cost $254 million over ten years.

Above-the-line deduction for qualified tuition related expenses. The Economic Growth and Tax Relief Reconciliation Act (EGTRRA) created an above-the-line tax deduction for qualified higher education expenses. The maximum deduction was $4,000 for taxpayers with AGI of $65,000 or less ($130,000 for joint returns) or $2,000 for taxpayers with AGI of $80,000 or less ($160,000 for joint returns). The proposal extends the deduction to the end of 2013.

This provision is estimated to cost $1.706 billion over ten years.

Tax-free distributions from individual retirement plan for charitable purposes. The bill extends for two years the provision that permits tax-free distributions to charity from an Individual Retirement Arrangement (IRA) held by someone age 70½ or older of up to $100,000 per taxpayer, per taxable year. The provision contains a transition rule under which an individual can make a rollover during January of 2013 and have it count as a 2012 rollover. Also, individuals who took a distribution in December of 2012 will be able to contribute that amount to a charity and count as an eligible charitable rollover to the extent it otherwise meets the requirements for an eligible charitable rollover.

This provision is estimated to cost $1.280 billion over ten years.

Disclosure of prisoner return information to certain prison officials. The IRS is authorized to disclose certain limited return information about tax violations identified by the IRS, so that prison officials could punish and deter the prisoner's conduct through administrative sanctions. The provision expired on December 31, 2011. The proposal would make the provision permanent. It would also modify and expand the provision to permit disclosure of the actual tax return as well as tax return

information, allow disclosure to prison officials directly, expand disclosure to include private contractors administering prisons, and provide disclosure to representatives of the prisoners. The proposal would make the provision permanent.

This provision is estimated to raise $12 million over ten years.

Business Provisions

Tax credit for research and experimentation expenses. The bill extends for two years, through 2013, the research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenses for a taxable year exceed its base amount for that year and provides an alternative simplified credit of 14 percent. The bill also modifies rules for taxpayers under common control and rules for computing the credit when a portion of a trade or business changes hands.

This provision is estimated to cost $14.324 billion over ten years.

9% Credit Rate Freeze for the Low-Income Housing Tax Credit Program. The low-income housing tax credit program provides a tax credit over a period of ten years after the housing facility is placed-in-service. The credit provided each year is determined by present-value formula based on the federal cost of borrowing. Over the past few years, as the federal cost of borrowing has declined, so has the amount of tax credits that can be used to build a LIHTC project. To deal with this, in 2008, Congress adjusted the formula and set a minimum credit amount of 9%, which is based on the original credit rate when the program was created. The provision is effective for facilities placed-in-service before December 31, 2013. This proposal would extend the expiration date by changing the deadline to projects that have received an allocation before January 1, 2014.

This provision is estimated to cost $8 million over ten years.

Treatment of military basic housing allowances under low-income housing credit. The bill extends a provision whereby a member of the military's basic housing allowance is not considered income for purposes of calculating whether the individual qualifies as a low-income tenant for the low income housing tax credit program. The provision expired at the end of 2011. The current proposal would continue this treatment for two additional years.

This provision is estimated to cost $37 million over ten years.

Indian employment tax credit. The bill extends for two years, through 2013, the business tax credit for employers of qualified employees that work and live on or near an Indian reservation. The amount of the credit is 20 percent of the excess of wages and health insurance costs paid to qualified employees (up to $20,000 per employee) in the current year over the amount paid in 1993.

This provision is estimated to cost $119 million over ten years.

New Markets Tax Credit. Through the New Markets Tax Credit (NMTC) program, the federal government is able to leverage federal tax credits to encourage significant private investment in businesses in low-income communities. The program provides a 39 percent tax credit spread over 7 years. The bill extends for two years the new markets tax credit, permitting a maximum annual amount of qualified equity investments of $3.5 billion each year.

This provision is estimated to cost $1.794 billion over ten years.

Credit for certain expenditures for maintaining railroad tracks. The bill extends for two years, through 2013, the railroad maintenance credit that provides Class II and Class III railroads (generally, short-line and regional railroads) with a tax credit equal to 50 percent of gross expenditures for maintaining railroad tracks that they own or lease. This credit is allowable against the AMT.

This provision is estimated to cost $331 million over ten years.

Mine rescue team training credit. The bill extends for two years, through 2013, a credit of up to $10,000 for the training of mine rescue team members.

This provision is estimated to cost $5 million over ten years.

Employer wage credit for activated military reservists. The bill extends for two years, through 2013, the provision that provides eligible small business employers with a credit against the employer's income tax liability for a taxable year in an amount equal to 20 percent of the sum of differential wage payments to activated military reservists.

This provision is estimated to cost $7 million over ten years.

Work opportunity tax credit. This bill extends for two years, through 2013, the provision that allows businesses to claim a work opportunity tax credit equal to 40 percent of the first $6,000 of wages paid to new hires of one of eight targeted groups. These groups include members of families receiving benefits under the Temporary Assistance to Needy Families (TANF) program, qualified ex-felons, designated community residents, vocational rehabilitation referrals, qualified summer youth employees, qualified food and nutrition recipients, qualified SSI recipients, and long-term family assistance recipients.

This provision is estimated to cost $1.773 billion over ten years.

Returning Heroes and Wounded Warriors Work Opportunity Tax Credits. Currently businesses are allowed to claim a work opportunity tax credit (WOTC) for hiring qualified veterans in the following targeted groups and up to the following credit amounts:

- Veterans in a family receiving supplemental nutrition assistance: $2,400
- Short-term unemployed veterans: $2,400
- Service-related disabled veterans discharged from active duty within a year: $4,800
- Long-term unemployed veterans: $5,600
- Long-term unemployed service-related disabled veterans: $9,600

A credit against Social Security taxes is also available to tax-exempt employers. Transfers are made from general revenues to make the Social Security trust fund whole. The provision expires on December 31, 2012. The proposal would extend these credits for an additional year, though 2013.

This provision is estimated to cost $125 million over ten years.

Qualified zone academy bonds (QZABs) - allocation of bond limitation. QZABs are a form of tax credit bond which offer the holder a Federal tax credit instead of interest. QZABs can be used to finance renovations, equipment purchases, developing course material, and training teachers and personnel at a qualified zone academy. In general, a qualified zone academy is any public school (or academic program within a public school) below college level that is located in an empowerment zone or enterprise community and is designed to cooperate with businesses to enhance the academic

curriculum and increase graduation and employment rates. The provision extends the QZAB program for 2012 and 2013 providing $400 million in bond volume per year.

This provision is estimated to cost $235 million over ten years.

15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements. The bill extends for two years, through 2013, the temporary 15-year cost recovery period for certain leasehold, restaurant, and retail improvements, and new restaurant buildings, which are placed in service before January 1, 2014. The extension is effective for qualified property placed in service after December 31, 2011.

This provision is estimated to cost $3.717 billion over ten years.

Seven-year recovery period for motorsports entertainment complexes. The bill extends for two years, through 2013, the special seven year cost recovery period for property used for land improvements and support facilities at motorsports entertainment complexes.

This provision is estimated to cost $78 million over ten years.

Accelerated depreciation for business property on Indian reservation. The bill extends for two years, through 2013, the placed-in-service date for the special depreciation recovery period for qualified Indian reservation property. In general, qualified Indian reservation property is property used predominantly in the active conduct of a trade or business within an Indian reservation, which is not used outside the reservation on a regular basis and was not acquired from a related person.

This provision is estimated to cost $222 million over ten years.

Enhanced charitable deduction for contributions of food inventory. The bill extends for two years the provision allowing businesses to claim an enhanced deduction for the contribution of food inventory.

This provision is estimated to cost $314 million over ten years.

Temporarily extend increase in the maximum amount and phase-out threshold under section 179. Under current law, a taxpayer with a sufficiently small amount of annual investment may elect to deduct the cost of certain property placed in service for the year rather than depreciate those costs over time. The 2003 tax cuts temporarily increased the maximum dollar amount that may be deducted from $25,000 to $100,000. The tax cuts also increased the phase-out amount from $200,000 to $400,000. These amounts have been further modified and extended several times on a temporary basis, increasing up to a high of $500,000 and $2 million respectively for taxable years beginning in 2010 and 2011, and then to $125,000 and $500,000 respectively for taxable years beginning in 2012, before reverting to the permanent amounts of $25,000 and $200,000 respectively for taxable years beginning in 2013 and thereafter. The modified proposal would increase the maximum amount and phase-out threshold in 2012 and 2013 to the levels in effect in 2010 and 2011 ($500,000 and $2 million respectively). Within those thresholds, the proposal would also allow a taxpayer to expense up to $250,000 of the cost of qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property. This proposal expires at the end of 2013 and the amounts revert to $25,000 and $200,000, respectively.

This provision is estimated to cost $2.352 billion over ten years.

Election to expense advanced mine safety equipment. The bill extends for two years, through 2013, the provision that allows a 50 percent immediate expensing for the following advanced underground mine safety equipment: (1) communications technology enabling miners to remain in constant contact with individuals above ground; (2) electronic tracking devices that enable individuals above ground to locate miners in the mine at all times; (3) self-rescue emergency breathing apparatuses carried by the miners and additional oxygen supplies stored in the mine; and (4) mine atmospheric monitoring equipment to measure levels of carbon monoxide, methane, and oxygen in the mine.

This provision is estimated to have a negligible cost over ten years.

Special expensing rules for certain film and television productions. The bill extends for two years, through 2013, the provision that allows film and television producers to expense the first $15 million of production costs incurred in the United States ($20 million if the costs are incurred in economically depressed areas in the United States).

This provision is estimated to cost $248 million over ten years.

Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico. The bill extends for two years the provision extending the section 199 domestic production activities deduction to activities in Puerto Rico.

This provision is estimated to cost $358 million over ten years.

Modification of tax treatment of certain payments to controlling exempt organizations. In general, interest, rent, royalties, and annuities paid to a tax–exempt organization from a controlled entity are treated as unrelated business income of the tax-exempt organization. The Pension Protection Act (PPA) provided that if a payment to a tax-exempt organization by a controlled entity is no more than fair market value, then the payment is excludable from the tax-exempt organization's unrelated business income. The bill extends the provision two years to the end of 2013.

This provision is estimated to cost $40 million over ten years.

Treatment of certain dividends of regulated investment companies (RIC's). The bill extends a provision allowing a RIC, under certain circumstances, to designate all or a portion of a dividend as an "interest-related dividend," by written notice mailed to its shareholders not later than 60 days after the close of its taxable year. In addition, an interest-related dividend received by a foreign person generally is exempt from U.S. gross-basis tax under sections 871(a), 881, 1441 and 1442 of the Code. The proposal extends the treatment of interest-related dividends and short-term capital gain dividends received from a RIC to taxable years of the RIC beginning before January 1, 2014.

This provision is estimated to cost $151 million over ten years.

RIC qualified investment entity treatment under FIRPTA. The bill extends the inclusion of a RIC within the definition of a "qualified investment entity" under section 897 of the Tax Code through December 31, 2013.

This provision is estimated to cost $60 million over ten years.

Exceptions under subpart F for active financing income. The U.S. parent of a foreign subsidiary engaged in a banking, financing, or similar business is eligible for deferral of tax on such subsidiary's earnings if the subsidiary is predominantly engaged in such business and conducts substantial activity

with respect to such business. The subsidiary must pass an entity level income test to demonstrate that the income is active income and not passive income. The proposal extends the provision to the end of 2013.

This provision is estimated to cost $11.225 billion over ten years.

Look-through treatment of payments between related controlled foreign corporations under the foreign personal holding company rules. The bill allows deferral for certain payments (interest, dividends, rents and royalties) between commonly controlled foreign corporations (CFC). This provision allows U.S. taxpayers to deploy capital from one CFC to another without triggering U.S. tax. The proposal extends present law to the end of 2013. The proposal is effective for tax years beginning after December 31, 2011.

This provision is estimated to cost $1.503 billion over ten years.

Special rules for qualified small business stock. Generally, non-corporate taxpayers may exclude 50 percent of the gain from the sale of certain small business stock acquired at original issue and held for more than five years. For stock acquired after February 17, 2009 and on or before September 27, 2010, the exclusion is increased to 75 percent. For stock acquired after September 27, 2010 and before January 1, 2012, the exclusion is 100 percent and the AMT preference item attributable for the sale is eliminated. Qualifying small business stock is from a C corporation whose gross assets do not exceed $50 million (including the proceeds received from the issuance of the stock) and who meets a specific active business requirement. The amount of gain eligible for the exclusion is limited to the greater of ten times the taxpayer's basis in the stock or $10 million of gain from stock in that corporation. The provision extends the 100 percent exclusion of the gain from the sale of qualifying small business stock that is acquired before January 1, 2014 and held for more than five years. The bill also clarifies that in the case of stock acquired after February 17, 2009, and before January 1, 2014, the date of acquisition for purposes of determining the percentage exclusion is the date the holding period for the stock begins.

This provision is estimated to cost $954 million over ten years.

Basis adjustment to stock of S corporations making charitable contributions of property. The bill extends for two years the provision allowing S corporation shareholders to take into account their pro rata share of charitable deductions even if such deductions would exceed such shareholder's adjusted basis in the S corporation.

This provision is estimated to cost $225 million over ten years.

Reduction in S corporation recognition period for built-in gains tax. If a taxable corporation converts into an S corporation, the conversion is not a taxable event. However, following such a conversion, an S corporation must hold its assets for a certain period in order to avoid a tax on any built-in gains that existed at the time of the conversion. The American Recovery and Reinvestment Act reduced that period from 10 years to 7 years for sales of assets in 2009 and 2010. The Small Business Jobs Act reduced that period to 5 years for sales of assets in 2011. The bill extends the reduced 5-year holding period for sales occurring in 2012 and 2013. In addition, this bill clarifies rules for carryforwards and installment sales.

This provision is estimated to cost $256 million over ten years.

Empowerment zone tax incentives. The bill extends for two years the designation of certain economically depressed census tracts as Empowerment Zones. Businesses and individual residents within Empowerment Zones are eligible for special tax incentives.

This provision is estimated to cost $450 million over ten years.

Extension of tax incentives for the New York Liberty Zone. The bill extends through 2013 the time for issuing New York Liberty Zone bonds effective for bonds issued after December 31, 2009.

This provision is estimated to have no cost over ten years.

Temporary increase in limit on cover over of rum excise tax revenues (from $10.50 to $13.25 per proof gallon) to Puerto Rico and the Virgin Islands. The bill extends for two years the provision providing for payment of $13.25 per gallon to cover over a $13.50 per proof gallon excise tax on distilled spirits produced in or imported into the United States.

This provision is estimated to cost $222 million over ten years.

American Samoa economic development credit. Certain domestic corporations operating in American Samoa are eligible for a possessions tax credit, which offsets their U.S. tax liability on income earned in American Samoa from active business operations, sales of assets used in a business, or certain investments in American Samoa. Further, the credit is subject to an economic activity-based limitation, and is based on the taxpayers', depreciation, and American Samoa income taxes. The bill extends the provision two years to the end of 2013 and modifies the credit to make it available to all qualifying manufacturing businesses operating in American Samoa.

This provision is estimated to cost $62 million over ten years.

Bonus depreciation. Under current law, businesses are allowed to recover the cost of capital expenditures over time according to a depreciation schedule. For 2008 through 2010, Congress allowed businesses to take an additional depreciation deduction allowance equal to 50 percent of the cost of the depreciable property. The TRUIRJCA expanded this provision to allow 100 percent bonus depreciation for investments placed in service after September 8, 2010 and before 2012 and 50 percent bonus depreciation for investments placed in service during 2012. This provision would extend the current 50 percent expensing provision for qualifying property purchased and placed in service before January 1, 2014 (before January 1, 2015 for certain longer-lived and transportation assets) and also allow taxpayers to elect to accelerate some AMT credits in lieu of bonus depreciation. This provision also decouples bonus deprecation from allocation of contract costs under the percentage of completion accounting method rules for assets with a depreciable life of seven years or less that are placed in service in 2013. For regulated utilities, the provision clarifies that it is a violation of the normalization rules to assume a bonus depreciation benefit for ratemaking purposes when a utility has elected not to take bonus depreciation.

This provision is estimated to cost $4.956 billion over ten years.

Energy Provisions

Credit for certain nonbusiness energy property (25C). The bill extends for two years, through 2013, the credit under Section 25C of the Code for energy-efficient improvements to existing homes, reinstating the credit as it existed before passage of the American Recovery and Reinvestment Act.

Standards for property eligible under 25C are updated to reflect improvements in energy efficiency. The provision also updates the energy efficiency requirements from the 2003 International Energy Conservation Code to the 2006 International Energy Conservation Code.

This provision is estimated to cost $2.446 billion over ten years.

Alternative fuel vehicle refueling property (non-hydrogen refueling property). The bill extends for two years, through 2013, the 30% investment tax credit for alternative vehicle refueling property.

This provision is estimated to cost $44 million over ten years.

Plug-in electric motorcycles and highway vehicles. The provision reforms and extends for two years, through 2013, the individual income tax credit for highway-capable plug-in motorcycles and 3-wheeled vehicles. This proposal replaces a 10 percent tax credit that expired at the end of 2011 for plug-in electric motorcycles, three-wheeled vehicles and low-speed vehicles. Thus it repeals the ability for golf carts and other low-speed vehicles to qualify for the credit.

This provision is estimated to cost $7 million over ten years.

Cellulosic biofuels producer tax credit. Under current law, facilities producing cellulosic biofuel can claim a $1.01 per gallon production tax credit on fuel produced before the end of 2012. This provision was created in the 2008 Farm Bill. The provision would extend this production tax credit for one additional year, for cellulosic biofuel produced through 2013. The proposal also expands the definition of qualified cellulosic biofuel production to include algae-based fuel.

This provision is estimated to cost $59 million over ten years.

Incentives for biodiesel and renewable diesel. The bill extends for two years, through 2013, the $1.00 per gallon tax credit for biodiesel, as well as the small agri-biodiesel producer credit of 10 cents per gallon. The bill also extends through 2013 the $1.00 per gallon tax credit for diesel fuel created from biomass.

This provision is estimated to cost $2.181 billion over ten years.

Indian country coal production tax credit. Under the 2005 Energy Policy Act, coal produced on land owned by an Indian tribe qualifies for a production tax credit equivalent to $2 per ton through 2012. This provision would extend the tax credit through 2013.

This provision is estimated to cost $1 million over ten years.

Extension and modification of incentives for renewable electricity property wind production tax credit and modification of other renewable energy credits. Under current law, taxpayers can claim a 2.2 cent per kilowatt hour tax credit for wind electricity produced for a 10-year period from a wind facility placed-in-service by the end of 2012 (the wind production tax credit). The bill extends through 2013 the production tax credit for wind. The provision also modifies section 45 to allow renewable energy facilities that begin construction before the end of 2013 to claim the 10-year credit, and amends section 45 to clarify that commonly recycled paper is excluded from qualifying from the production tax credit.

This provision is estimated to have a net of cost $12.109 billion over ten years.

Investment tax credit in lieu of production tax credit. Under current law, facilities that produce electricity from solar facilities are eligible to take a thirty percent (30%) investment tax credit in the year that the facility is placed-in-service. Facilities that produce electricity from wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation, hydropower, landfill gas, waste-to-energy, and marine renewable facilities are eligible for a production tax credit for electricity produced over a ten-year period. The investment tax credit is better for small and offshore wind facilities. The bill would allow facilities qualifying for the production tax credit to elect to take the investment tax credit in lieu of the production tax credit for facilities that begin construction by the end of 2013.

This provision is estimated to cost $135 million over ten years.

Credit for construction of new energy efficient homes. The bill extends for two years, through 2013, the credit for the construction of energy-efficient new homes that achieve a 30% or 50% reduction in heating and cooling energy consumption relative to a comparable dwelling constructed per the standards of the 2003 International Energy Conservation Code (including supplements).

This provision is estimated to cost $154 million over ten years.

Credit for energy efficient appliances. The bill extends for two years, through 2013, the tax credit for US-based manufacturers of energy-efficient clothes washers, dishwashers and refrigerators.

This provision is estimated to cost $650 million over ten years.

Cellulosic biofuels bonus depreciation. Under current law, facilities producing cellulosic biofuel can expense 50 percent of their eligible capital costs in the first year for facilities placed-in-service by the end of 2012. This provision was created in the 2008 Farm Bill. The provision would extend this bonus depreciation for one additional year for facilities placed-in-service before the end of 2013. The proposal also expands the definition of qualified cellulosic biofuel production to include algae-based fuel.

This provision is estimated to cost less than $500,000 over ten years.

Special rule for sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy. The bill extends for two years, for sales prior to January 1, 2014, the present law deferral of gain on sales of transmission property by vertically integrated electric utilities to FERC-approved independent transmission companies. Rather than recognizing the full amount of gain in the year of sale, this provision would allow gain on such sales to be recognized ratably over an eight-year period.

This provision has a negligible cost over ten years.

Incentives for alternative fuel and alternative fuel mixtures (other than liquefied hydrogen). The bill extends through 2013 the $0.50 per gallon alternative fuel tax credit and alternative fuel mixture tax credit. This credit can be claimed as a nonrefundable excise tax credit or a refundable income tax credit. Due to claims of abuse in the alternative mixture tax credit, the Committee adopted an amendment denying taxpayers from claiming the refundable portion of the alternative fuel mixture tax credit.

This provision is estimated to cost $360 million over ten years.

V. Revenue Offset for Sequester

Roth conversions for retirement plans. Under current law, a deferral plan under section 401(k) (including the Thrift Savings Plan), 403(b) or 457(b) governmental plan can have Roth accounts that allow participants to save on a Roth basis. That is, they can make after-tax contributions to the plan and all the principal and earnings are tax-free when distributed. Plans can currently allow participants to convert their pre-tax accounts to Roth accounts, but only with respect to money they have a right to take out of the plan, usually because they have reached age 59½ or separated from service. This proposal would allow any amount in a non-Roth account to be converted to a Roth account in the same plan, whether or not the amount is distributable. The amount converted would be subject to regular income tax.

This provision is estimated to raise $12.2 billion over ten year.