MCGUIREWOODS

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FY 2017 Budget Week Wrap-Up

On Feb. 9, the White House submitted to Congress President Obama's fiscal year 2017 budget request (the "Budget"). Republican leaders in both chambers quickly dismissed the Budget as a non-starter. In their budget hearings this week, Senate Finance Chairman Orrin Hatch and House Ways and Means Chairman Kevin Brady criticized the various tax increases and new spending measures littered throughout the Budget. Republicans on the tax-writing panels focused their ire on the $10.25 per barrel tax on oil, citing concerns that the new "fee" would raise gas prices for American consumers. "Either President Obama did not take the budget process seriously this year or he is completely out of touch with the American people," Brady said in his opening remarks.

President Obama's final budget plan is chock full of big Democratic ideas for modernizing the nation's transportation infrastructure, encouraging climate initiatives, and expanding taxes to fund other domestic initiatives. There are new proposals aimed at expanding access to retirement savings plans; restructuring the Cadillac tax; bolstering the Land and Water Conservation Fund; and improving access to alternative fuels.

The release of the president's FY 2017 budget plan comes as the congressional budget and appropriations process gets underway. With the looming presidential election, lawmakers are planning to move the budget resolutions and spending bills under an expedited schedule this year. House Speaker Paul Ryan wants to pass all 12 spending bills by July — a tough feat given that Congress has rarely ever completed the appropriations process on time. House Republicans are set to meet today to work out a strategy for this year's budget and appropriations process.

After the President's Day recess, the House Budget Committee is expected to mark up its budget resolution. Republicans who were hoping to vote on a budget within the first week of March may have to wait a little longer. Ideological divides among House Republicans are likely going to frustrate House Speaker Paul Ryan's initial plan to produce a congressional budget blueprint by March. Ryan conceded that the chamber might now have to wait until Apr. 15. Meanwhile, the Senate will likely wait for the House to make the first move on the budget. Should intraparty disagreements among House Republicans threaten the passage of a budget resolution, the Senate might forego a new budget blueprint altogether to avoid subjecting its members to a "vote-a-rama" — a rapid series of budget votes — in a high-stake election year. But as of this writing, Senate Republican leaders are planning to follow the House schedule and produce a budget resolution by Apr. 15.

Even though the president's budget as a whole will not get very far, McGuireWoods' tax policy team has dug out some of the more noteworthy proposals for your review — because you just never know if they might reappear later down the road. Check out our FY 2017 budget overview below.

President Obama's FY 2017 Budget Request

Total Request:	$4.1 trillion
Total Receipts:	$3.6 trillion
Deficit:	$503 billion

The tax proposals in the Budget would reduce the deficit by $2.6 trillion over 10 years.

General Business

- **Enhance and Simplify Research Incentives.** The Budget eliminates the traditional method of calculating the R&E tax credit in favor of the alternative simplified research credit, which would be increased from 14 percent to 18 percent, and the R&E credit would be allowed to offset alternative minimum tax liability for all taxpayers, among other modifications. This provision would be effective for expenditures paid or incurred after 2016. *Costs $27 billion*

- **Repeal "Carried" Interest.** The Budget proposes that a partner's profits interest in an investment partnership would be given ordinary income treatment and not long-term capital gains treatment. *Raises $19 billion*

- **LIFO Inventory Accounting Method**. The Budget would repeal the use of the LIFO inventory accounting method for federal income tax purposes. Repeal would be effective for the first taxable year beginning after Dec. 31, 2016. *Raises $81 billion*

- **Reform the Taxation of Capital Income.** The Budget would increase the capital gains tax rate from 20% to 24.2%, with the 3.8% net investment income tax rate still intact. In addition, the "stepped-up" basis rule is eliminated for transfers of appreciated property. However, the Budget exempts capital gains for tangible personal property such as household items and personal effects, and there is an exclusion up to $100,000 for the other capital gains, and a specific $500,000 capital gain exclusion, per couple, for all residences. *Raises $235 billion*

- **Work Opportunity Tax Credit**. The Budget would permanently extend the WOTC to apply to wages paid to qualified individuals who begin work for the employers after Dec. 31, 2019. The calculation of the credit would also be modified: for taxable years beginning after December 31, 2016, the credit would be equal to 20 percent of the excess of qualified wages and health insurance costs paid or incurred by an employer in the current taxable year over the amount of such wages and costs paid or incurred by the employer in the base year. The base year costs would equal the average of such wages and costs for the two taxable years prior to the current taxable year. *Costs $9 billion*

> **GOOD TO KNOW:** In March, Senate Finance Committee Chairman Orrin Hatch (R-UT) plans to roll out his integration initiative. His proposal would fundamentally change the way corporations are taxed. Neither the Hatch proposal nor these major business initiatives are viable in 2016.

International

- ~Modified~ **19% Minimum Tax on Foreign Earnings.** The Budget would impose a 19 percent tax on the foreign earnings of CFCs. The tax would be on current foreign earnings regardless of repatriation. This proposal would be effective after Dec. 31, 2016 *Raises $351 billion*

- **14% One-Time Tax on Previously Untaxed Foreign Earnings.** The Budget would impose a one-time mandatory 14-percent tax on foreign accumulated earnings for taxable years beginning before Jan. 1, 2016. The tax would be payable over five years. *Raises $299 billion*

- **Limit the Ability of Domestic Entities to Expatriate.** The Budget would treat the new foreign parent as a domestic corporation for U.S tax purposes if continuity is greater than 50%. Other limitations include per se inversion transactions and providing IRS with authority to share tax return information with Federal agencies to enforce anti-inversion rules. A similar proposal was included in last year's budget proposal. *Raises $13 billion*

- **Modify Tax Rules for Dual Capacity Taxpayers**. The Budget would create an even playing field between dual capacity taxpayers and regular taxpayers. The portion of foreign levy that may be treated as a creditable tax could not exceed the amount that would be a creditable tax if the taxpayer were not a dual capacity taxpayer. The aspect of the proposal that would determine the amount of a foreign levy paid by a dual-capacity taxpayer that qualifies as a creditable tax would yield to United States treaty obligations to the extent that they explicitly allow a credit for taxes paid or accrued on certain oil or gas income. *Raises $10 billion*

> **GOOD TO KNOW:** House Ways and Means Chairman Kevin Brady (R-TX) has pledged to work with Rep. Charles Boustany (R-LA) to develop a revised international tax reform proposal that includes an innovation box and differs significantly from the President's proposal.

Energy

- **Oil Spill Liability Trust Fund.** The Budget proposes to increase the liability trust fund tax to 9 cents/barrel after Dec. 31, 2016. Moreover, the tax would extend to crudes such as those produced from bituminous deposits as well as kerogen-rich rock. There was a similar proposal last year but the increase accounted for 2015. *Raises $1 billion*

- **~**New~ **Impose An Oil Fee.** The Budget would create a new crude oil barrel "fee" to be collected on domestic and imported petroleum products. Exports of petroleum products and home heating oil, however, would be exempted temporarily. The per-barrel fee would be set at $10.25, phased in over a five year period beginning Oct. 1, 2016. *Raises $319 billion*

- ~Modified~ **Carbon Dioxide Investment/Sequestration Tax Credit.** The Budget would create a new refundable investment tax credit to be made available to new and retrofitted electric generating units. To qualify for the credit, new plants would need to capture more than one million metric tons of carbon dioxide per year. This is similar to a proposal in last year's budget but the qualification threshold is modified. *Costs $1 billion*

- ~Modified~ **Modification and Permanent Extension of PTC for Renewable Electricity Production and the Investment Tax Credit.** The Budget proposes to permanently extend renewable electricity PTC for facilities that begins its construction after Dec. 31, 2016. The proposal would also extend permanently the investment tax credit for other renewables. *Costs $24 billion*

- ~New~ **Extend the Tax Credit for Second Generation Biofuel Production.** The Budget proposes to extend the tax credit for blending cellulosic fuel at $1.01 per gallon through 2022. The credit rate would be reduced by 20% each following year and eliminated entirely beginning in 2027. *Costs $1 billion*

- **Eliminated:**

  - ✕ **Exemption from the corporate income tax for fossil fuel PTPs.** *Raises $1.4 billion*
  - ✕ **Enhanced oil recovery credit.** The Budget seeks to eliminate the 15-percent credit for eligible costs related to EOR projects. *Raises $9 billion*
  - ✕ **Credit for oil/natural gas produced from marginal wells.** *Revenue effect negligible*
  - ✕ **Expensing of intangible drilling costs.** *Raises $10 billion*
  - ✕ **Deduction of costs paid or incurred for any tertiary injectants.** *Raises $77 million*
  - ✕ **Exception to passive loss limitations provided to working interests in oil and natural gas properties.** *Raises $103 million*

- ✕ **Use of percentage depletion with respect to oil and natural gas wells.** *Raises $5 billion*
- ✕ **Use of the domestic production manufacturing deduction.** *Raises $9 billion*

> **GOOD TO KNOW:** The new proposed $10.25 per barrel tax on oil would raise the price of gasoline by roughly 25 cents. Exempting military, school districts, and state governments would be more difficult since the tax would be paid by the oil company before the purchaser of the end product is known.

Financial Services

- **Financial Fee.** The Budget proposes a financial fee (7 basis points) on certain liabilities of firms with more than $50 billion in assets. The fee would be effective Jan. 1, 2017. *Raises $111 billion*

- **Derivative Contracts.** The Budget proposes that gain/loss from a contract be marked to market no later than the last business day of the taxpayer's taxable year. Business hedging transactions would not require mark to market accounting. *Raises $21 billion*

- **Use of Average Basis Method.** The Budget proposes that the cost basis of stock that is a "covered security" be determined by using an average cost basis method. The requirement would be applied to portfolio stock acquired after Dec. 31, 2016. *Raises $5 billion*

- **Simplify Arbitrage Investment Restrictions**. The Budget proposal seeks to unify yield restriction and rebate further by relying on arbitrage rebate as the principal type of arbitrage restriction on tax-exempt bonds. The proposal would streamline the three-year spending exception to arbitrage rebate for tax-exempt bonds under certain conditions. *Costs $344 million*

Retirement

- **Provide for automatic enrollment in IRAs, including a small employer tax credit, increase the tax credit for small employer plan start-up costs, and provide an additional tax credit for small employer plans newly offering auto-enrollment.** This proposal would require employers in business for at least two years that have more than 10 employees and do not currently offer a qualified retirement plan, SEP, or SIMPLE to offer an automatic traditional or Roth IRA option to employees. Employee participation is optional; employees who do not provide a written participation election would be enrolled in a Roth IRA at a default rate of 3 percent of the employee's compensation. Under this system, employers are not required to make contributions and they bear no liability or responsibility for determining employee eligibility to make tax-favored IRA contributions. Instead, a national website would provide basic educational material regarding saving and investing for retirement. *Costs $2 billion*

- The proposal includes a number of credits for small employers (less than 100 employees):
- Small employers that offer automatic IRAs will be eligible to claim a temporary non-refundable tax credit for the employer's related expenses up to $1,000 per year for three years. These employers would also be entitled to an additional non-refundable credit of $25 per enrolled employee up to $250 per year for six years.
- Small employers who do not currently sponsor a qualified retirement plan, SEP, or SIMPLE will be eligible to claim a non-refundable start-up costs tax credit if they adopt such a plan. The credit will be tripled from the current maximum of $500 per year for three years to a maximum of $1,500 per year for three years and extended to four for employers that adopt a new retirement plan during the three years beginning when it first offers an automatic IRA arrangement.
- Small employers are also allowed a credit of $500 per year for up to three years for plans that include auto enrollment or if they add auto enrollment as a feature to an existing plan.

- **Expand penalty-free withdrawals for long-term unemployed.** Long-term unemployed individuals who have been unemployed for more than 26 weeks would be able to withdraw up to $50,000 per year for two years from any tax-preferred retirement account. In order to qualify, distributions must be made during the taxable year in which unemployment compensation is paid or in the succeeding taxable year and the aggregate of such distributions may not exceed certain prescribed limits. *Costs $2 billion*

- **Require retirement plans to allow long-term part-time workers to participate.** Employees who have worked for an employer at least 500 hours per year for at least three consecutive years must have the option to participate in the employer's existing plan. Employers would not be required to offer matching contributions. This proposal would also require a plan to credit, for each year in which a part-time employee worked at least 500 hours, a year of service for purposes of vesting in any employer contributions. For employees who would be newly covered under this proposed change, employers would receive nondiscrimination testing relief, including permission to exclude such employees from top-heavy vesting and benefit requirements. *Costs $516 million*

- **Facilitate Annuity Portability.** Plan participants would be allowed to take a distribution of a lifetime income investment through a direct rollover to an IRA or other retirement plan if the annuity investment is no longer authorized to be held under the plan, without regard to whether another event permitting a distribution has occurred. The distribution would not be subject to the 10 percent additional tax.

- **Simplify minimum required distribution (MRD) Rules.** If the aggregate value of an individual's IRA and tax-favored retirement plan accumulations do not exceed $100,000 on a measurement date, such individuals are exempt from MRD requirements. Benefits under qualified defined benefit pension plans that have already begun to be paid in life annuity form would be excluded in determining the dollar amount of the accumulations. The MRD requirements would phase in ratably for individuals with aggregate retirement benefits between $100,000 and $110,000. The proposal would also harmonize the application of the MRD requirements for holders of designated Roth accounts and of Roth IRAs by requiring distributions to begin shortly after age 70½, without regard to whether amounts are held in designated Roth accounts or in Roth IRAs. Individuals would not be permitted to make additional contributions to Roth IRAs after they reach age 70½. *Raises $498 million*

- **Allow all inherited plan and IRA balances to be rolled over within 60 days.** The proposal would expand the options that are available to a surviving non-spouse beneficiary under a tax-favored employer retirement plan or IRA for moving inherited plan or IRA assets to a non-spousal inherited IRA by allowing 60-day rollovers of such assets.

- ~New~ **Permit unaffiliated employers to maintain a single multiple employer defined contribution plan.** This proposal will modify ERISA to allow unaffiliated employers without a "common bond" to form a defined contribution multiple employer plan (MEP) that would be treated as a single plan for purposes of ERISA. In order to participate in this arrangement, employers may not have maintained a qualified plan within the previous three years. Each participating employer would retain fiduciary responsibility for prudent selection and monitoring of plan providers and any other person that is a fiduciary of the plan. Employers would also retain responsibility for investment of plan assets attributable to its employees' accounts, unless investment management responsibility was delegated to the plan provider or another fiduciary. *Costs $2 billion*

- **Require non-spouse beneficiaries of deceased IRA owners and retirement plan participants to take inherited distributions over no more than five years.** Under the proposal, non-spouse beneficiaries of retirement plans and IRAs would generally be required to take distributions over no more than five years. Exceptions would be provided for eligible beneficiaries. *Raises $6 billion*

- **Limit the total accrual of tax-favored retirement benefits.** A taxpayer who has accumulated amounts within the tax-favored retirement system in excess of the amount necessary to provide the maximum annuity permitted for a tax-qualified defined benefit plan under current law (currently an annual benefit of $210,000) payable in the form of a joint and 100-percent survivor benefit commencing at age 62 and continuing each year for the life of the participant and, if longer, the life of a spouse, assumed to be of the same age would be prohibited from making additional contributions or receiving additional accruals under any of those arrangements. *Raises $30 billion*

- **Limit ROTH conversions to pre-tax dollars.** The proposal would permit amounts held in a traditional IRA to be converted to a Roth IRA or rolled over from a traditional IRA to a Roth IRA, only to the extent a distribution of those amounts would be includable in income if they were not rolled over. Therefore, after-tax amounts held in a traditional IRA could not be converted to Roth amounts. *Raises $10 billion*

> **GOOD TO KNOW:** In addition to the new retirement savings plan for a multiple-employer group, state have begun enacting laws to establish 401(k) type plans for taxpayers whose employer does not offer a defined contribution retirement plan.

Health

- ***Medicare:*** The budget once again, proposed to strengthen the Independent Payment Advisory Board (IPAB), the ACA created body whose purpose was to tell Congress how to reduce Medicare spending. IPAB has never been funded or staffed. In addition to proposing more alternative payment methods as a way to save Medicare dollars, the budget also contains competitive bidding for Medicare Advantage plans. Under this proposal, payment rates would be based on plans' bids. The budget says the bidding program would reward plans for lowering their bids by allowing them to keep 100 percent of the difference between their bid and the benchmark. The budget also calls for standardizing quality bonus payments across counties by removing the doubling of the quality bonus payment which is only available in certain areas and by lifting the cap on benchmarks for plans that are entitled to receive a quality bonus payment. These changes to Medicare providers would save $3.4 billion in 2017 and $56 billion over 10 years**.**

- ***Medicaid:*** The President's budget continues to push for Medicaid expansion by proposing to offer three years of full federal funding for newly eligible beneficiaries to states who have not yet expanded and extends funding for the Children's Health Insurance Program (CHIP) through fiscal year 2019. A surprise proposal was a joint federal state negotiating pool to reduce the cost of drugs. Currently states are allowed to negotiate supplemental drug rebates, but CMS is not allowed to facilitate negotiations with drug makers. The proposal would allow CMS and state Medicaid programs to partner with private sector contractors to negotiate supplemental rebates. The budget also proposes that CMS collect wholesale acquisition costs for Medicaid covered drugs with the budget states would ensure accurate reporting of average manufacturer prices. *Costs $3 billion*

- ***Cadillac Tax:*** The President is also suggesting some changes in the Affordable Care Act's "Cadillac tax," a 40 percent excise tax on employer sponsored health insurance benefits over a certain threshold. Congress last year decided to delay implementation of the tax to 2020. The budget proposes that in any state where the premium for a gold plan on an exchange would be above the Cadillac tax's current threshold, the threshold would rise to the amount of the average gold plan's premium. *Raises $1 billion*

- ***Cancer Moonshot:*** The budget seeks $755 billion in new minority funds for cancer related activities at the National Institutes of Health and the Food and Drug Administration. The initiative also includes $195 million in immediate funding for the NIH for FY 2016.

- ***National Institutes of Health:*** The budget takes $1 billion from NIH's discretionary budget and replaces it with $1.8 billion in mandatory funding. This has researchers worried that the agency's funding base would be weakened over the long term.

- ***Food and Drug Administration:*** The FDA received a small boost in funding overall in the budget, disappointing advocates concerned about FDA's role in food and drug safety.

- ***Opioid Epidemic:*** The budget contains $1.1 billion to address the national opioid epidemic. This includes $1 billion in mandatory funding over two years to expand access to treatment. Of this, $920 million will be given to states to expand medication-assisted treatment for opioid use disorders.

- ***Mental Health:*** The budget proposes $500 million in mandatory spending to increase access to mental health treatment. The proposal says the additional funding would be used to help engage individuals with serious mental illness by improving access to care through increasing service capacity.

GOOD TO KNOW: Some of the funding for the Cancer Moonshot was discretionary funding for NIH, meaning that it could be used for a variety of research and it now must go towards cancer research. NIH leadership is concerned about what this means for the NIH budget in the long term.

<u>Education</u>

- ~New~ **Provide Community College Partnership Tax Credit.** Businesses would be permitted to claim a tax credit for hiring graduates from community and technical colleges. The proposal would provide $500 million in tax credits annually for 2017 through 2021. The tax credits would be allocated to states on a per capita basis. *Costs $2 billion*

- ~Modified**~ Streamline and Expand Higher Education Tax Incentives.** The Budget would provide about $49 billion to simplify and better target tax benefits for education. Under this initiative, the Lifetime Learning Credit would be consolidated into an expanded American Opportunity Tax Credit (AOTC), Pell Grants would be exempt from taxation and AOTC calculations, and the tax on student loan debt forgiveness would be eliminated. The president's budget plan from last year contained similar proposals**.**

<u>Tax Administration</u>

- **~** New~ **Increase Oversight of Paid Tax Return Preparer.** The proposal would explicitly provide that the Secretary has the authority to regulate all paid tax return preparers. A similar proposal was provided in last year's budget plan but more prescriptive, as it noted certain due diligence measures to be taken by tax return preparers. *Raises $424 million*

- **Revise Offer-In-Compromise Application Rules.** The Budget would eliminate the requirements that an initial offer-in-compromise include a nonrefundable payment of any portion of the taxpayer's offer. Under current law, taxpayers may be required to make certain nonrefundable payments with any initial offer-in-compromise of a tax case. *Raises $19 million*

- **Make Repeated Willful Failure to File a Tax Return a Felony.** The Budget proposes a new felony for aggravated failure to file for any person who willfully fails to file tax returns in any three years within any five consecutive year period, if the aggregated tax liability for such period is at least $50,000. Upon conviction, the proposal would impose a fine of not more than $250,000 ($500,000 in the case of a corporation) or imprisonment for not more than five years, or both. The proposal would be effective for returns required to be filed after December 31, 2016. *Raises $10 million*

- **Facilitate Tax Compliance With Local Jurisdictions.** For purposes of information sharing, the Budget would treat those Indian Tribal Governments (ITGs) that impose alcohol, tobacco, or fuel excise or income or wage taxes as states, to the extent necessary for ITG tax administration. *Raises $17 million*

- **Improve Investigative Disclosure Statute.** The proposal would clarify the taxpayer privacy law by stating that the law does not prohibit Department of the Treasury and IRS officers and employees from identifying themselves, their organizational affiliation, and the nature and subject of an investigation, when contacting third parties in connection with a civil or criminal tax investigation. *Raises $20 million*

- **Allow the IRS to Absorb Credit and Debit Card Processing Fees for Certain Tax Payments.** The Budget would amend section 6311(d) to allow, but not require, the IRS to accept credit or debit card payments directly from taxpayers and to absorb the credit and debit card processing fees for delinquent tax payments, without charging a separate processing fee to the taxpayer. *Raises $20 million*

- **Provide the IRS With Greater Flexibility to Address Correctable Errors.** The proposal would remove the existing specific grants of math error authority, and provide that "math error authority" will refer only to computational errors and the incorrect use of any table provided by the IRS. In addition, the proposal would add a new category of "correctable errors." *Raises $633 million*

- **Enhance Electronic Filing of Returns.** The Budget would require all corporations and partnerships with $10 million or more in assets to file their tax returns electronically. In addition, regardless of asset size, corporations with more than ten shareholders and partnerships with more than ten partners would be required to file their tax returns electronically. Preparers that expect to prepare more than 10 corporation income tax returns or partnership returns would be required to file these returns electronically. The proposal would require all tax-exempt organizations that must file Form 990 series returns, including the Form 990-T, or Forms 8872 to file them electronically. The proposal would provide the IRS the authority to require electronic filing of information that is relevant only to employee benefit plan tax requirements, so that it can be electronically filed with the Department of Labor. *Raises $10 million*

- **Improve the Whistleblower Program.** The Budget would amend section 7623 to explicitly protect whistleblowers from retaliatory actions, consistent with the protections currently available to whistleblowers under the False Claims Act. In addition, the proposal would amend section 6103 to provide that the section 6103(p) safeguarding requirements apply to whistleblowers and their legal representatives who receive tax return information in whistleblower administrative proceedings and extend the penalties for unauthorized inspections and disclosures of tax return information to whistleblowers and their legal representatives.

- **Index All Civil Tax Penalties for Inflation.** The proposal would index all civil tax penalties with a fixed penalty amount (including floors and caps imposed with respect to penalties) to inflation and round the indexed amount to the next hundred dollars.

- **Combat Tax-Related Identity Theft.** The proposal would add the tax-related offenses in Title 18 and the criminal tax offenses in Title 26 to the list of predicate offenses contained in the Aggravated Identity Theft Statute. If this proposal is enacted, criminals who are convicted for tax-related identity theft may be subject to longer sentences than the sentences that apply to those criminals under current law. In addition, the proposal would add a $5,000 civil penalty to the Code to be imposed in tax identity theft cases on the individual who filed the fraudulent return.

- **Allow States to Send Notices by Regular First-Class Mail**. The budget proposes to remove the current statutory requirement that states use certified mail to send notices for delinquent state income tax obligations and permits states to send such notices by first-class mail instead.

- **Accelerate Information Return Filing Due Dates**. The proposal would accelerate the due date for filing information returns and eliminate the extended due date for these returns when electronically filed. Under the proposal, information returns would be required to be filed with the IRS by January 31, except that Form 1099-B would be required to be filed with the IRS by February 15. The due dates for the payee statements would remain the same. *Raises $109 million*

- **Enhance Administrability of the Appraiser Penalty.** Section 6694 imposes a penalty on paid tax return preparers for understatements of tax due to unreasonable positions taken on a return or claim for refund and for understatements of tax that occur as a result of a paid preparer's willful or reckless conduct. The penalty will not be imposed if there is reasonable cause for the understatement and the preparer acted in good faith. Section 6695A imposes a penalty on any person who prepares an appraisal of the value of property, if the person knows or reasonably should have known that the appraisal would be used in connection with a return or claim for refund, and if the claimed value of the property based on the appraisal results in a substantial or gross valuation misstatement. There is an exception to the penalty if the value in the appraisal is "more likely than not" the proper value. The Budget proposes to replace the "more likely than not" exception with a reasonable cause exception. It would also coordinate the penalties under Section 6694 and 6695A so that an appraiser would not be subject to penalties under both sections for the same appraisal.

Others

- **Expand Requirements of Consistency in Value for Transfer and Income Tax Purposes.** The Budget proposes expanding the property subject to the consistency requirements under section 1014(f) to include certain property qualifying for the estate tax marital deduction and certain property transferred by gift. *Raises $2 billion*

- ~Modified~ **Qualified Public Infrastructure Bonds.** The budget also includes a series of bond proposals for infrastructure. A new category of tax-exempt qualified private activity bonds called "Qualified Public Infrastructure Bonds" would be created to fund certain public facilities. QPIBs would not be subject to issuance caps and the AMT preference for interest on specified private activity bonds. *Costs $5 billion*

- ~Modified~ **Tobacco Tax.** The Budget would nearly double the tax rate on cigarettes and small cigars at $97.50/1000 unit and would significantly increase taxes on large cigars, chewing tobacco, "roll-your-own" tobacco, and pipe tobacco. Unlike current law, the proposed tax rates would be indexed for inflation starting in 2018. *Raises $115 billion*

GOOD TO KNOW: No tax provisions have to pass in 2016 except one extending the life the aviation trust fund that houses excise taxes related to aviation. That program expires Mar. 31, 2016. Most other non-permanent tax provisions expire Dec. 31, 2016.

Tax & Financial Services Policy Group:

Russ Sullivan
Rosemary Becchi
Danielle Dellerson
Dan Chung
Radha Mohan
Lai King Lam