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Tax & Financial Services Policy Group

Washington, We Have a Budget

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President Donald Trump's budget request for fiscal year 2018 comes with a dramatic title: "A New Foundation for American Greatness." This is somewhat fitting given the eye-popping spending cuts in the proposal, which aims for three overarching goals: (1) deliver a balanced budget, (2) spur economic growth and job creation, and (3) strengthen national security.

The steep cuts in both mandatory and discretionary spending surprised no one, as the cuts were previewed in the administration's "skinny budget" released in March 2017. While domestic programs like the Supplemental Nutrition Assistance Program (SNAP) and Medicaid would bear the brunt of the cuts, the administration has left Social Security and Medicare untouched — fulfilling a promise made by Trump on the campaign trail.

As with all past presidential budget requests, Trump's FY2018 budget is simply a wish list that will largely be ignored by Congress. Sen. John Cornyn (R-TX) said that the budget was "dead on arrival." Republican appropriators like Rep. Hal Rogers (R-KY) and Mike Simpson (R-ID) are balking at the proposed level of cuts. "This is Mulvaney's budget […]. There's just some of the stuff in here that doesn't make sense […] you can't pass these budgets on the floor," Simpson said. Ultimately, lawmakers will put together a budget resolution that reflects their own policy priorities.

President Trump's FY 2018 Budget Request

For those who have been following tax reform developments in Washington, the FY 2018 budget provides few new details about the administration's plan for overhauling the tax code. The budget simply restates the one-page tax reform outline unveiled by the White House back in April.

However, there is one small edit — in addition to preserving the homeownership and charitable giving deductions, the budget assures that "retirement saving" benefits would also be protected. This addition is likely a response to the brouhaha caused by White House Press Secretary Sean Spicer when he mistakenly told reporters that 401(k)s were on the chopping block.

The budget also assumes that tax reform will be deficit-neutral. But don't get too excited — OMB Director Mick Mulvaney said that this was done for the sake of convenience:

> *"We do assume in this budget that [the tax] plan is deficit-neutral, just because it was, in all honesty, the most efficient way to look at it. Because if we said it's going to add to the deficit, then we have to go into more detail than what's in the summary right now. If we say it's going to reduce the deficit, we have to go into more detail than what's in it now. And we simply are not in a position to do that."*

If the administration is sincere about pursuing deficit-neutral tax reform, it will be interesting to see how GOP tax writers deal with controversial revenue raisers like the border adjustment tax ("BAT") and interest deductibility, as well as the proposed business and individual tax rates.

In the overview below, McGuireWoods' tax policy team has extracted the provisions in the budget that are relevant for our clients. Even though the president's FY2018 budget request, as a whole, isn't expected to go anywhere, the revenue provisions therein always have the potential to make an appearance somewhere down the road as offsets.

The Budget Numbers

Trump's proposal aims to deliver a balanced budget in FY 2027. This would be done through spending cuts as well as the assumption that the U.S. economy can achieve 3-percent growth by FY 2021 and sustain that growth in the years beyond. The budget also assumes a $2 trillion deficit reduction through the effects of economic feedback (read: dynamic scoring).

FY 2018 Total Receipts:	$3.65 trillion
FY 2018 Total Spending:	$4.09 trillion
Deficit:	$440 billion

- The FY 2018 budget provides $4.5 trillion in total spending reductions over 10 years.
- The deficit remains pretty steady from FY 2018-2022, hovering around an average of $470 billion per fiscal year within the first five years.
- Of note, the repeal of Obamacare taxes and mandates would cost the government $990 billion in *net revenue loss*.

Tax Administration

The FY 2018 budget asks for $12.1 billion for the Department of the Treasury's domestic programs, a $519 million or 4.1 percent decrease from FY2017. The IRS would receive $11.2 billion in funding – out of which $2.3 billion would go towards the Taxpayer Service Program.

- **Require SSN for Child Tax Credit and Earned Income Tax Credit.** The budget proposes requiring a Social Security Number (SSN) that is valid for work in order to claim the Earned Income Tax Credit (EITC) or the Child Tax Credit (CTC). For both credits, this requirement would apply to taxpayers, spouses, and all qualifying children. Under current law, households who do not have SSNs that are valid for work, including illegal immigrants who use Individual Taxpayer Identification Numbers, can claim the CTC, including the refundable portion. This proposal would ensure that only individuals who are authorized to work in the United States could claim these credits. *Raises $40 billion*

- **Increase Oversight of Paid Tax Return Preparers.** Provide the IRS with the authority to increase its oversight of paid tax return preparers. *Raises $439 million.*

- **Provide More Flexible Authority for the IRS to Address Correctable Errors**. *Raises $655 million*

> **GOOD TO KNOW:** The budget preserves key operations of the IRS to ensure that the agency can continue to combat identity theft, prevent fraud, and reduce the deficit through the effective enforcement and administration of tax laws.
>
> The budget proposes diverting resources from "antiquated operations that are still reliant on paper-based review in the era of electronic tax filing" to achieve significant savings.

Healthcare

The president's 2018 budget requests $69 billion for the Department of Health and Human Services. This funding includes additional funds for implementing the *21st Century CURES Act*. The president's budget assumes that the *American Health Care Act*, as passed by the House earlier this month, will be signed into law. As a result, the budget includes the following items:

- **Repeal and Replace Obamacare.** The budget assumes that Congress will repeal and replace Obamacare, eliminate the law's taxes and mandates, and provide funding for states to stabilize markets and for tax credits to help purchase coverage. *Raises: $250 billion.*

- **Medicaid Reforms.** The budget proposes reforms to Medicaid by giving states the choice between per capita caps and block grants. It would roll back Obamacare's Medicaid expansion and instead push for state-based solutions to fund the program. _Raises: $610 billion._

- **Children's Health Insurance Program (CHIP).** The budget proposes to extend CHIP funding for two years, through 2019. The program will be eliminated in subsequent years. _Raises: $5.8 billion_

GOOD TO KNOW: The president adopts the House framework and scoring of the *American Health Care Act*. The Senate's healthcare bill, however, will differ significantly. While the net deficit reduction may be similar, the Medicaid cuts will be less severe, and additional offsets or narrower cuts will be necessary. It is not clear whether the Medicaid reforms are counted twice — once as part of the package to repeal and replace Obamacare and once separately.

Financial Services

The FY 2018 budget calls for the end of taxpayer-funded bailouts and aims to grow the economy by reforming the U.S. financial regulatory regime. The budget does not provide any further details on what these reforms might entail, however.

- **Restructure the CFPB.** Restructure the CFPB by placing the bureau under the regular congressional appropriations process. _Raises $6.8 billion_

- **Eliminate the SEC Reserve Fund**. Eliminate the reserve fund and direct resources to the Treasury's General Fund for deficit reduction. The fund, created by Dodd-Frank, is a repository for SEC filing fees and can be used to pay for various improvements or upgrades at the agency. _Raises $450 million_

GOOD TO KNOW: Though the president's budget does not discuss in detail the financial regulatory reforms that the administration is considering, the first regulatory review report from the Treasury (due June 5) will likely make the following recommendations:

- Relief for community banks
- Modification of the Volcker Rule
- Repeal of the orderly liquidation authority

- **Reform Financial Regulation and Prevent Taxpayer-funded Bailouts.** Anticipated savings from forthcoming financial regulatory changes as directed by the Executive Order on Core Principles for Regulating the U.S. Financial System. _Raises $35 billion_

Energy and Natural Resources

The FY 2018 budget requests $28 billion for the Department of Energy, which marks a $1.7 billion decrease from FY 2017 level.

- **Sale of Oil from Strategic Petroleum Reserve.** Allow the sale of approximately 270 million barrels of oil from the reserve. *Raises $16.6 billion*

- **Restart Nuclear Waste Fund Fee in 2020**. *Raises $3.1 billion*

- **Lease oil and gas in the Arctic National Wildlife Refuge.** The budget proposes legislation that would allow oil and gas leasing in a small part of ANWR. *Raises $1.8 billion*

- **Repeal Gulf of Mexico Energy Security Act State Payments.** Revenue-sharing payments to Gulf Coast States from oil and gas development would be redirected to all U.S. taxpayers. *Raises $3.5 billion*

GOOD TO KNOW: One surprise in the budget is Trump's willingness to impose new fees, especially in the agricultural sector. For example, the budget establishes a $6 billion "Food Safety and Inspection Service" user fee. Here is a list of other new fees imposed by the budget:

- **Animal Plant and Health Inspection Service Fee** (Raises $200 million)
- **Grain Inspection, Packers, and Stockyards Administration Fee** (Raises $300 million)
- **Agricultural Marketing Service Fee** (Raises $200 million)

Transportation/Infrastructure

On the campaign trail, Trump touted a $1 trillion infrastructure investment plan. The FY 2018 budget repeatedly cites the $1 trillion figure. But it does not actually provide $1 trillion in direct funding, rather it would provide $200 billion over 10 years to help get to the $1 trillion target — this would be met by a combination of new federal funding, incentivized non-federal funding and expedited projects with a federal nexus (i.e. the Keystone XL Pipeline).

- **Provide an Infrastructure Investment Plan**. The budget outlines a plan to invest $200 billion across a range of sectors, including surface transportation, airports, waterways, ports, drinking and waste water, broadband and key federal facilities. *Costs $200 billion*

- **Reduction in Aviation Excise Taxes.** The budget proposes a reduction in aviation excise taxes of $115.6 billion.

- **Reform Air Traffic Control**. The budget provides support (as was outlined in the previously released "skinny budget") for a shift of air traffic control functions away from the Federal Aviation Administration (FAA) and to a non-profit, non-governmental entity. Such a shift has also been proposed by key leaders in Congress including House Transportation and Infrastructure Committee Chairman Rep. Bill Shuster (R-PA). The budget made a point to clarify that the FAA would remain responsible for aviation safety oversight as well as maintaining the Airport Improvement Program. *Costs $115 billion*

> **GOOD TO KNOW:** While new proposals are taking off, discretionary spending at the Department of Transportation (DOT) is going down. Specifically, the budget proposes a 13 percent reduction in discretionary spending at DOT in FY 2018, targeting the department's popular TIGER discretionary grant program.
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> Consistent with the rest of the president's budget and overall effort to reduce federal regulations, the proposed funding for DOT emphasizes the value of eliminating or significantly revising regulations that create barriers to infrastructure investment by all levels of government and the private sector.

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