Testimony before the Committee on Finance

United States Senate

Eric Solomon and Mark A. Weinberger[1]

March 1, 2011

Chairman Baucus, Ranking Member Hatch, and distinguished Senators on the Committee, thank you for the opportunity to testify today regarding the factors that have brought us again to consider updating and reforming our Internal Revenue Code (the "Code").

The thorough process you have laid out — to assess current state, consider changes and then proceed with comprehensive reform — is the correct approach to construct tax policy. Judging from our nation's tax history, the undertaking you are beginning will not be easy and will not be without twists and turns. It most certainly will not be without controversy. However, the goal of a simpler, more efficient, competitive tax system is an imperative. We offer our assistance to you, and your staff, as you advance through this process.

This year will mark the 25th anniversary of the Tax Reform Act of 1986 (the "1986 Act"). The 1986 Act — building on reforms from the early 1980s — significantly lowered marginal tax rates while broadening the income tax base. It was the last comprehensive reform of the Code.

Since that time, we have witnessed numerous and material changes in our tax laws. The changes in our economy, demographics, business environment and global landscape over this period have been even more dramatic. In 1986, our nation's principal political rival was the Soviet Union, there was no European Union or Euros, no concept of BRIC[2] countries, no smart phones, nor the wide use of cell phones.

Clearly, the world is very different than it was in 1986. As the world has changed, businesses and other governments have rethought their business models and revenue policies and adopted strategies in order to compete successfully. The United States too needs a tax code that reflects this changed landscape.

We have had the opportunity to view the tax system from different vantage points over many years, through experiences in the executive and legislative branches of government, as well as in the private sector. You have asked us to discuss in our written and oral testimony what we think are the most compelling factors that have brought us again to consider comprehensive tax

[1] Mark A. Weinberger was Assistant Secretary for Tax Policy from 2001 to 2002. Eric Solomon was Assistant Secretary for Tax Policy from 2006 to 2009. We have both been asked to testify in our individual capacities. Our written and oral remarks are our own and do not necessarily represent the views of Ernst & Young LLP.
[2] The BRIC countries are Brazil, Russia, India and China.

reform. What we have seen is that the interest in comprehensive tax reform has intensified principally because of the:

(1) **Evolving business and global landscape.** Our nation and the world have changed dramatically. The business environment is more complex and globally connected. The world economy is now more integrated and nations are more interdependent, with fundamental changes having occurred in industry composition, use of technology, and the role of emerging markets. Our tax laws have not kept up.

(2) **Increasing global competitive pressures.** Growth in foreign markets, increased global competition for jobs and capital, and the rapidly changing economic and tax policies of our major trading partners compel us to improve the competitiveness of our tax laws.

(3) **Expanding use of the Code.** Our tax system has been asked to do more and more over the years. New provisions are constantly added to the Code to address social and other policy issues and respond to economic circumstances. Moreover, as political perspectives have changed, tax legislative priorities have shifted frequently. The Code has grown enormously. Once added, new provisions are difficult to remove and add to complexity, which results in increased economic burden.

(4) **Cumulative effect of changing budget and legislative processes.** Federal budget rules and legislative process changes have played a significant role in how tax policy has evolved over the years. The result has been increased use of temporary tax provisions, the phasing in and phasing out of tax laws and the increased use of revenue offsets. While the budget rules serve an important purpose, they have had the effect of adding to the complexity and instability of the Code.

(5) **Worsening fiscal situation.** Our unprecedented fiscal deficits and national debt require us to comprehensively re-evaluate our spending and tax priorities. Since so many policy objectives are implemented through both spending and tax provisions, it will be difficult to address spending without considering taxation. Moreover, the large fiscal imbalance increases the need for an efficient and pro-growth tax system.

In the following sections of this testimony, we provide further discussion of our observations and conclusions.

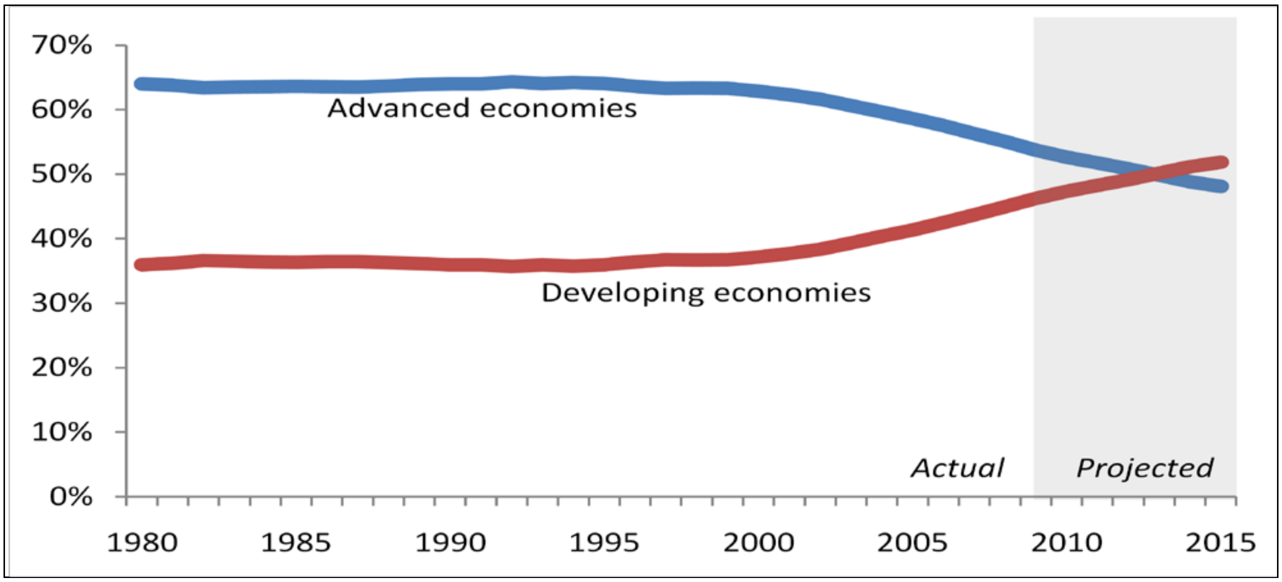
1. Evolving business and global landscape

The world economy in 2011 is vastly different than it was several decades ago. The U.S. economy represents a smaller share of the world economy, in significant measure due to the rise of developing economies. In addition, the U.S. economy is increasingly integrated and interdependent with the economies of other nations. Both capital and labor have become increasingly mobile. The composition of the world economy has also changed. Traditional manufacturing has declined in relative size, while technology, services, financial innovation, and intangible assets have become more important. In light of all of these changes, it is necessary to re-examine the Code.

In the several decades following World War II, the United States was the largest exporter of capital. Now it is the largest importer of capital. These shifting capital flows have rebalanced economic influence from West to East in a major way. Cross-border capital flows have also grown significantly, which has increased the interdependence of global capital markets.

The economic prominence of the United States has diminished in the past 50 years, with the U.S. share of world Gross Domestic Product ("GDP") falling from 38% in 1962 to 21% in 2007[3]. This reflects the more rapid growth in the developing world as compared to the more advanced economies (including the United States). As shown in Chart 1, the GDP of developing countries has grown from 37% of world GDP in 2000 to 47% in 2010 and is projected to be 52% of world GDP in 2015.

Chart 1. Shares of world GDP: advanced and developing economies, 1980-2015

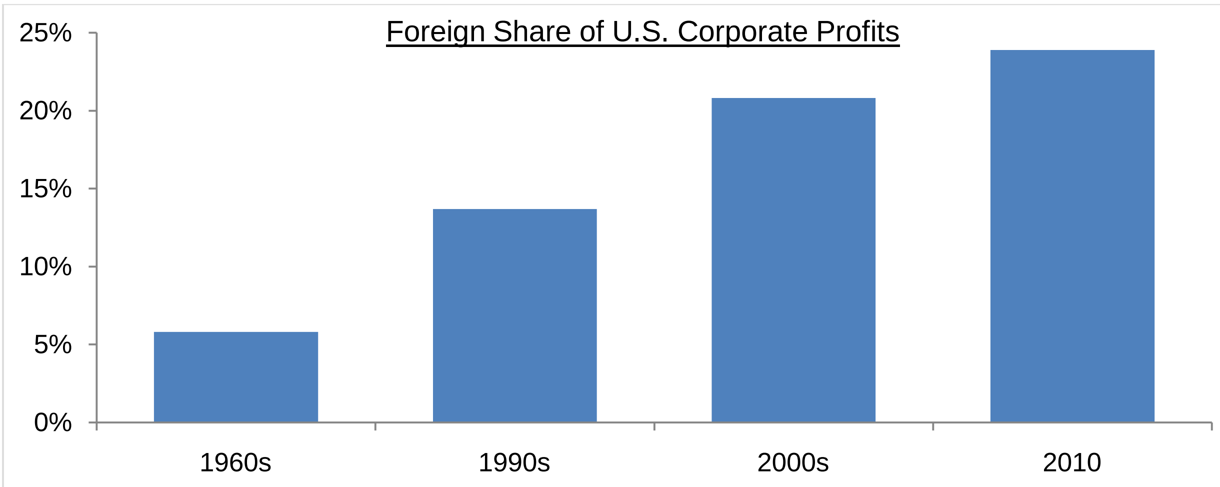


Note: Projected estimates begin in 2009. GDP based on purchasing power parity (PPP).
Source: International Monetary Fund, World Economic Outlook, April 2010.

[3] The World Bank, World Development Indicators, December 15, 2010.

As shown in Chart 2, much of the potential for market growth now exists outside the United States, with foreign markets contributing to an increasing share of U.S. corporate profits. The foreign share of U.S. corporate profits has risen from just over 5% in the 1960s to nearly 25% in 2010.

Chart 2. Foreign markets are increasingly important to the growth and profits of U.S. companies



Sources: Bureau of Economic Analysis, National Income and Products Account Table 6.16 (as of 2/23/2011); Ernst & Young LLP projection for 2010.

Companies from developing countries are also becoming more significant competitors for U.S.-based companies, with the number of Global Fortune 500 companies headquartered in BRIC countries increasing more than threefold in the past 10 years, from 16 in 2000 to 58 in 2009 (see Table 1).[4]

[4] Barbara Angus, Tom Neubig, Eric Solomon and Mark Weinberger, "The U.S. International Tax System at a Crossroads," *Tax Notes*, April 5, 2010, p. 51.

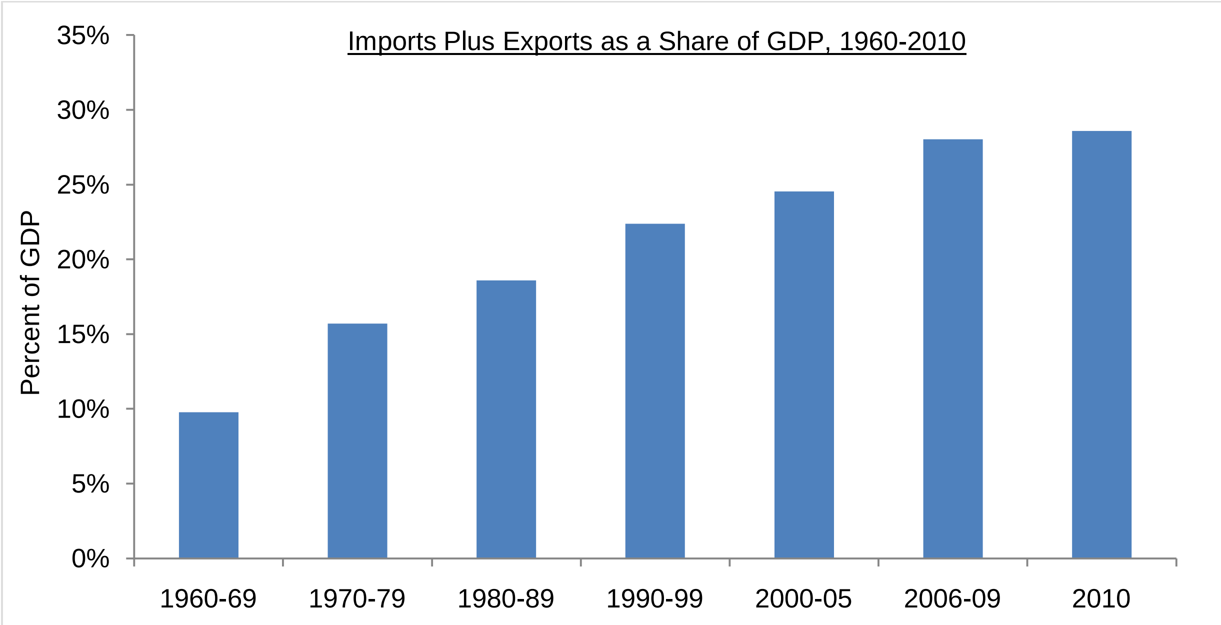
Table 1. Shifting composition of the Fortune Global 500 companies

Country	2000 Total Revenue ($billions)	2000 Number of Companies	2000 Percent of Companies	2009 Total Revenue ($billions)	2009 Number of Companies	2009 Percent of Companies
United States	**4,681**	**179**	**36%**	7,544	140	28%
Japan	**2,931**	**107**	**21%**	2,980	68	14%
Germany	**1,217**	**37**	**7%**	2,259	39	8%
France	**922**	**37**	**7%**	2,166	40	8%
China	**200**	**10**	**2%**	1,661	37	7%
United Kingdom	**765**	**38**	**8%**	1,585	27	5%
Netherlands	**391**	**10**	**2%**	1,044	12	2%
Italy	**264**	**10**	**2%**	699	10	2%
Korea	**242**	**12**	**2%**	603	14	3%
Switzerland	**293**	**11**	**2%**	566	15	3%
Total Top 10	**11,904**	**451**	**90%**	21,106	402	80%
Other	**792**	**49**	**10%**	4,069	98	20%
Total Global 500	**12,696**	**500**	**100%**	25,175	500	100%
G-7 countries[1]	**10,929**	**420**	**84%**	17,613	338	68%
BRIC countries	**291**	**16**	**3%**	2,619	58	12%

Note: Totals may not add due to rounding.
[1]The G-7 countries are Canada, France, Germany, Italy, Japan, the United Kingdom and the United States.
Sources: Fortune, Global 500; Ernst & Young LLP.

As a result of globalization, we have also seen an increasing interconnectedness of global economic fortunes. The success of U.S.-headquartered global companies abroad often depends on a local presence abroad. U.S. exports are often an important source of supply for U.S. companies operating abroad. As shown in Chart 3, the U.S. economy is increasingly globally integrated, with exports and imports now representing nearly 30% of total U.S. GDP. This reflects both the globalization of U.S. production (exports) and consumption (imports). New consumer markets are opening as a new economic middle class emerges in many countries, causing companies to adopt more complex and efficient supply chains.

Chart 3. The U.S. economy has become increasingly open over time



Source: U.S. Department of Commerce, Bureau of Economic Analysis, NIPA accounts.

Another change in the global economy over the past several decades is the type of economic activity taking place globally. Although manufacturing is still a vital part of the economy, an increasing share of world economic activity and growth is in services and intangible assets.

Technology has contributed to the significant growth of global markets and the higher productivity that underlies rising living standards around the world. The United States has traditionally led in the development of new technologies and the resulting new products and services. For example, U.S.-headquartered companies have led in the information technology ("IT") advances that have been critical to the development of businesses in all industry sectors around the world. Today, companies from emerging market countries such as India and China are beginning to play a growing role in the IT sector. The changes in technology pose substantial challenges for tax administration and enforcement in a world where products can be moved around the world with a mouse click and the migration of intangibles is becoming increasingly commonplace.

Likewise, research and development (R&D) has been critical to the success of U.S.-headquartered global companies. R&D will be even more critical in the future in the increasingly global marketplace. Patents, copyrights, brand names, new business processes, and other R&D expenditures are all growing in importance. The value of intangible assets was only 62% of the value of fixed assets (equipment and buildings) in the 1960s.

By 2003, that percentage had risen to 136%. Today, much of a company's value can come from its people, ideas, processes, and other intangible assets.

The development of intangible assets is more and more a global effort, with global companies having multiple research centers and a growing number of cross-border joint ventures. The rise of services and technology has meant that the flow of capital has become more mobile as well. Capital is no longer just foreign direct investment in bricks and people. It increasingly consists of investment in intangible assets, including ideas in the form of patents, copyrights, trademarks, and R&D. These changes have put new and increasing pressures on our current tax system, which is largely unequipped to deal with these developments.

Finally, globalization also leads to more complex business structures. Companies commonly have dozens of affiliates or subsidiaries, as well as global supply chains. As business relationships and transactions have become more complex, governments around the world need to deal with similar complexities.

In sum, as a result of dynamic changes in the global economy and business structures, it is becoming harder to apply our existing tax laws in a way that can accurately identify and measure the source of profits, including income from intangibles. Moreover, while governments remain national, businesses are increasingly global. The interaction of all the tax laws and regulations, including their inconsistencies and complexities, has led to an increased amount of time spent by businesses on tax planning (to avoid double taxation and minimize liabilities) and compliance.

Moreover, globalization has integrated the world economy in fundamental ways. It is now important to assess economic and tax developments around the world, and to consider U.S. tax policy in light of those developments. While several decades ago the United States could be more inward-looking and focus on tax policy in isolation, the rise of developing economies and new growth markets now requires the United States to view tax policy in a more integrated manner.

We can no longer view U.S. tax policy in a vacuum. Our tax system needs to adapt to the changing role of the United States in the world economy.

2. Increasing global competitive pressures

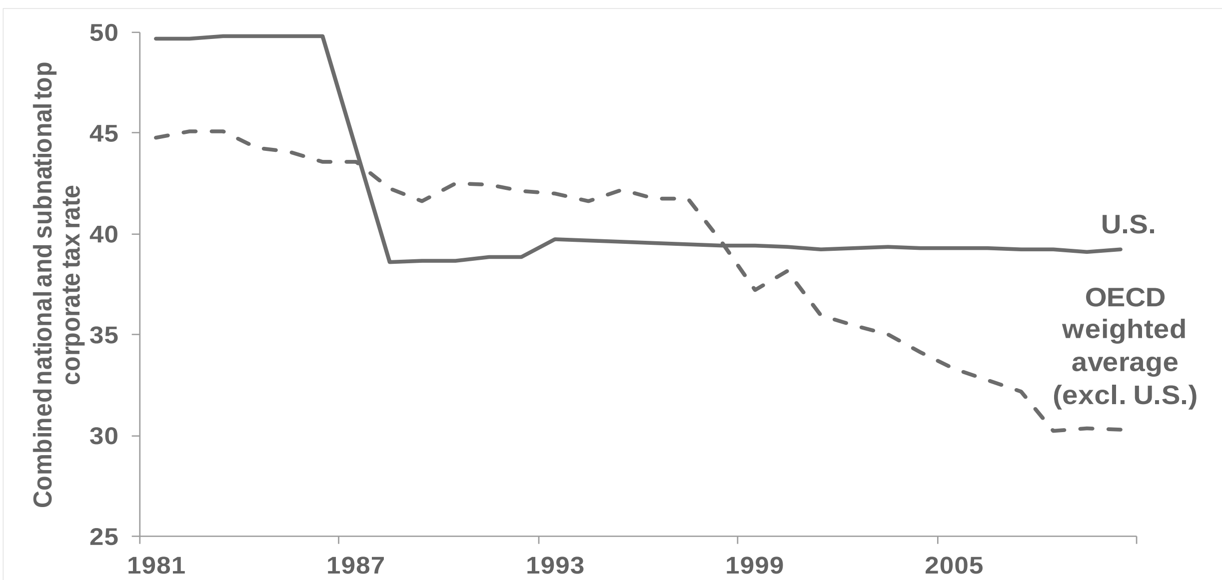
The U.S. business tax system has been slow to respond to this changing global landscape. While the Code has grown in size and complexity, structurally it has largely remained unchanged for the past several decades. In contrast, other nations have more readily adapted to the changing global economy. Other developed nations have lowered their corporate tax rates, sometimes dramatically, and have also shifted their systems for taxing foreign source income towards territorial tax systems. While the rest of the world seems to be moving in a generally consistent direction, the U.S. tax laws are increasingly out of step.

At the beginning of the 1980s, the United States had a statutory corporate income tax rate slightly above the OECD average (see Chart 4). When the U.S. federal statutory corporate income tax rate was reduced from 46% to 34% under the 1986 Act, the United States instantly became a low tax rate country relative to its major trading partners. Since 1986, however, our major trading partners have been reducing their statutory corporate income tax rates below that of the United States. Today, the United States has a 39.2% combined federal-state statutory corporate income tax rate, significantly above the average 25.2% rate within the OECD (or 31.1% when weighted by GDP).

Of the 34 OECD nations, 30 have lowered their statutory corporate income tax rates since 2000. China lowered its statutory corporate tax rate on foreign companies from 33% to 25% in 2008 to further encourage foreign investment, even though many companies were already increasing their investments in China to capitalize on its rapid economic growth.[5]

Moreover, countries continue to lower their corporate tax rates. The United Kingdom is expected to lower its corporate tax rate to 24% by 2015, and Japan is expected to lower its corporate tax rate effective this April. In 2011, Canada has also lowered its corporate tax rate.[6] A critical aspect of these changes, and the lack of change in the United States, is their effect on U.S. jobs and the real wages of U.S. workers. There is an increasing amount of economic research that draws on the experience abroad, and at the state level within the United States, that finds that workers bear a substantial portion of corporate income taxes. That is, this research suggests that if corporate income taxes were lower, their wages would be higher.[7]

Chart 4. Average OECD member country corporate tax rate, 1981-2010



Note: Average weighted by exchange rate adjusted nominal GDP.
Source: Organization for Economic Co-operation and Development, 2010.

[5] Explanation of the Draft Enterprise Income Tax Law. March 8, 2007. National People's Congress of the People's Republic of China. Accessed: Feb 23, 2011, <http://www.npc.gov.cn/englishnpc/Speeches/2007-03/08/content_360344.htm>.

[6] Canada lowered its corporate tax rate from 30.5% to 28.5% effective January 1, 2011. This rate will be further lowered to 26.0% effective January 1, 2012.

[7] For example, one recent paper finds that labor bears between 45% and 75% of the corporate income tax. Mihir A. Desai, C. Fritz Foley, and James R. Hines, Jr., "Labor and Capital Shares of the Corporate Tax Burden: International Evidence," *International Tax Policy Forum*, December 2007. Other recent research finding a link between corporate income taxes and wages includes Arulampalam, Wiji, Michael P. Devereux, and Giorgia Maffin, (2008). "The Direct Incidence of Corporate Income Taxes on Wages," Oxford University Centre for Business Taxation, WP, May 7, 2007; Robert Carroll and Gerald Prante, "Corporate Income Taxes and Wages: Evidence from the 50 States," Tax Foundation Working Paper No. 8, August 2009; Alison R. Felix, "Do State Corporate Income Taxes Reduce Wages," *Federal Reserve Bank of Kansas City Economic Review*, Second Quarter 2009; and Kevin Hassett and Aparna Mathur, "Spacial Tax Competition and Domestic Wages," American Enterprise Institute for Public Policy Research, December 2010.

The point is often made that the U.S. statutory corporate income tax rate is not the right measure for comparing the United States to other nations because it does not reflect differences in the tax base. The same trends, however, are reflected in other metrics for comparing corporate income taxes. In several recent studies the effective marginal tax rates on new investment are found to be higher in the United States than in the member nations of the OECD.[8] In another study on effective tax rates based on financial statement data, the United States had an effective tax rate that was the second highest among the 15 countries analyzed, exceeded only by Japan.[9]

Moreover, the statutory corporate tax rate is the relevant tax rate for a number of important business decisions. High statutory tax rates encourage the location of income and investment in low tax rate locations and encourage the use of debt to finance business operations. Higher statutory tax rates encourage increased tax planning to lower the tax cost faced by businesses.[10]

Not only is the U.S. statutory corporate income tax rate relatively high, but the U.S. system of taxing international income still reflects the world as it existed in 1962, when many of the important U.S. international tax rules were enacted.[11] In contrast, most developed countries have moved, by varying degrees, away from worldwide taxation of active foreign income to territorial tax systems, whereby companies are not subject to domestic tax on their active foreign business income (see Table 2).[12] At the beginning of 2009, there were three major exceptions—the United States, the United Kingdom, and Japan. However, since then, both the United Kingdom and Japan have moved to a territorial tax system. With an increasing percentage of every global company's revenue coming from overseas markets, the taxation of their foreign earnings becomes more important. Now, the United States is the only OECD country with a corporate tax rate above 25% and a worldwide tax system.

---

[8] Effective marginal tax rates measure the taxes paid on the last dollar of new investment and take into account statutory rates plus features of the tax code that affect the taxes paid on new investment such as depreciation deductions, inventory allowances, and interest deductions. See Duanjie Chen and Jack Mintz, "Taxing Business Investments: A New Ranking of Effective Tax Rates on Capital," World Bank, July 2008.

[9] See Kevin S. Markle and Douglas A. Shackelford, "Cross-Country Comparisons of Corporate Income Taxes," University of North Carolina, Working Paper, February 2011.

[10] Testimony by Rosanne Altshuler before the Senate Committee on the Budget, "Tax Reform: A Necessary Component for Restoring Fiscal Responsibility," February 2, 2011, p. 6.

[11] For further discussion of international tax reform, see Barbara Angus, Tom Neubig, Eric Solomon and Mark Weinberger, "The U.S. International Tax System at a Crossroads," *Tax Notes*, April 5, 2010.

[12] Most of the territorial tax systems of U.S. trading partners are dividend exemption systems under which dividends from foreign subsidiaries, and in some cases income from foreign branches, are completely or largely exempt from domestic tax. However, other categories of foreign source income, such as interest, royalties, and export sales income, may be subject to domestic tax.

Table 2. Comparing taxation of foreign source income

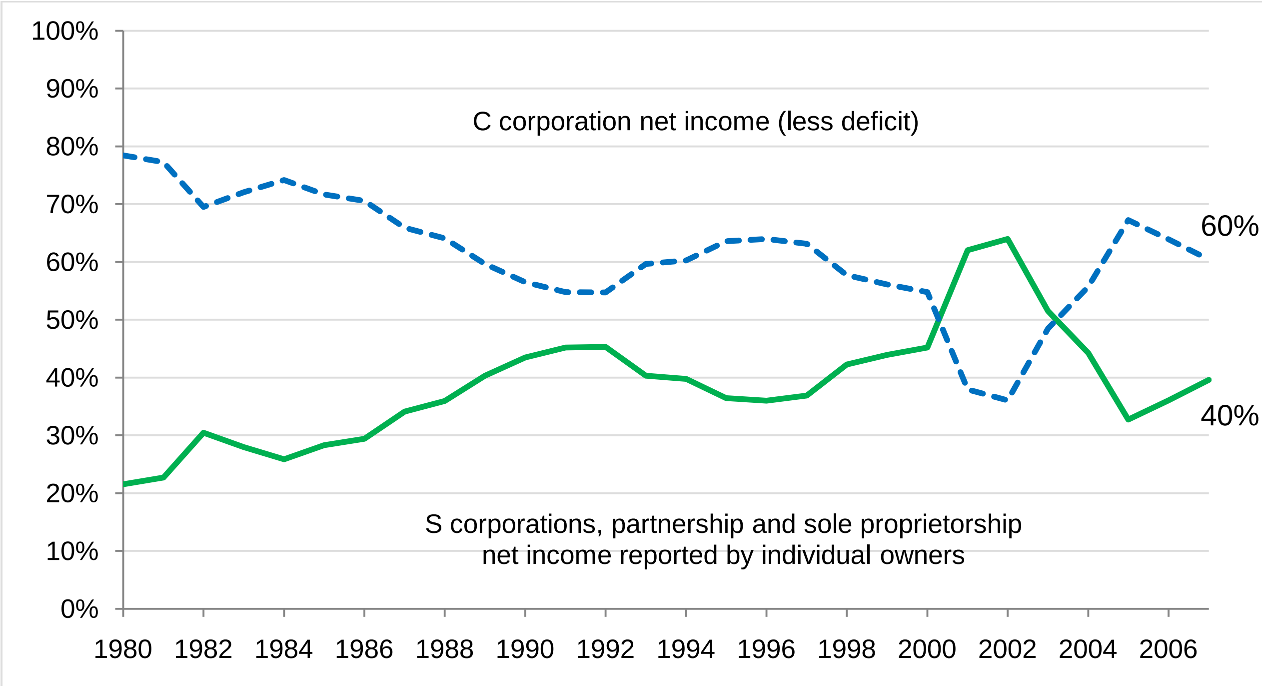
Top 10 countries with most *Fortune* global headquarters	2011 statutory corporate tax rate[a]	Taxation of foreign-source income
Countries with worldwide tax regimes		
United States	39.1%	Worldwide with deferral and foreign tax credit
China	25.0%	Worldwide with deferral and foreign tax credit
Korea	24.2%	Worldwide with deferral and foreign tax credit
Countries with exemption tax regimes		
Japan	35.7%	95% dividend exemption enacted in 2009
France	34.4%	95% dividend and branch exemption
Germany	33.0%	95% dividend exemption
Italy	31.4%	95% dividend exemption
United Kingdom	27.0%	100% dividend exemption enacted in 2009
Netherlands	25.5%	100% dividend and branch exemption
Switzerland	21.2%	100% dividend and branch exemption

a: Includes both national and sub-national statutory corporate tax rates. Japan's proposed change in tax rate from 40.7% to 35.7% would become effective April 2011.
Sources: Fortune Global 500; Ernst & Young LLP.

Another important development in business taxation is that an increasing percentage of U.S. business income is not taxed at the corporate level. A substantial portion of business activity in the United States is increasingly conducted by pass-through entities (e.g., S corporations, partnerships and limited liability companies) and sole proprietorships. As Chart 5 demonstrates, the share of business income earned by pass-through entities and sole proprietorships has increased substantially. In recent years, these businesses reported 40% of business net income and one-third of business receipts. The United States has the second largest non-corporate sector among the OECD countries, exceeded only by Mexico.

Pass-through entities earn a large percentage of the business income in the United States for many reasons, but tax policy is one of the most important. The double taxation of corporate earnings, once when earned by the corporation and then again when distributed to individual shareholders, is a principal consideration when individuals choose to establish a business. The elimination of a second level of taxation on business income reduces the taxation on capital and therefore leads to increased investment. As tax reform progresses, and the taxation of business income is analyzed, it will be important to recognize the large percentage of businesses that are pass-throughs and sole proprietorships and any potential consequences proposed reforms may have on them.

Chart 5. U.S. pass-through and C corporation shares of business income, 1980-2007



Sources: Internal Revenue Service, Statistics of Income, Corporate Source Book and Individual Tax Returns (publication 1304), various years.

In sum, the goal for U.S. policymakers should be to ensure that the tax laws contribute to the success of U.S. businesses operating in the global economy, which will contribute to the diversity and growth of the U.S. economy and the well-being of the American people.

The U.S. business tax system is not the only factor that influences the location of income and investment. Many other factors, such as an educated work force, regulatory oversight, infrastructure, secure property rights and a well functioning legal system are also important factors. However, as other nations become more developed, these other factors are becoming less of an advantage for the United States. This means that differences in business taxes are becoming even more important.

3. Expanding use of the Code

The primary purpose of a tax system is to raise adequate revenue to support the government's needs. In collecting that revenue, there are basic objectives that policymakers have identified that our tax system should achieve: fairness, pro-growth and simplicity. When there are political shifts in the country, the priorities in these objectives often shift as well. The budget proposals of various Administrations illustrate the differing priorities that have been proposed, considered and sometimes adopted. For example, there is a significant difference in priorities between the last Bush Administration budget proposal in 2008 and the first Obama Administration budget proposal in 2009 (see Appendix 1).

At the outset, we note that these objectives are sometimes inconsistent and not complementary. For example, although various individual preferences have a purpose to achieve fairness, they often complicate rather than simplify the Code. Examples that come to mind include the Earned Income Tax Credit, refundable credits, phasing out of tax benefits for upper income individuals and the individual alternative minimum tax ("AMT").

A consistent theme has been the increasing use of the Code to address non-tax policy issues. For example, the Code is used to encourage certain activities that the Congress and the American people view as important — home ownership, charitable giving, savings, education, investment and innovation, green initiatives, and health care, to mention some of the more prominent areas. Once enacted, these provisions are difficult to narrow or remove from the Code. Industries develop and constituencies grow from the tax benefits provided, often seeking to modify or expand them.

The Code has also increasingly been used to address broader economic circumstances beyond social policies. For example, in 2002 and 2003 Congress enacted many provisions to stimulate economic activity because of the downturn, which was caused in part by the 9/11 tragedies. In addition, Congress enacted stimulus bills with tax provisions to assist in the recovery after the recent financial crisis.[13] In order to respond to other circumstances, such as natural disasters, Congress has often turned to the Code to provide relief and assistance.[14]

Since 1986, numerous tax laws have been enacted in every session of Congress, adding hundreds of new provisions to the Code (see Appendix 2). According to figures cited by the National Taxpayer Advocate, there have been more than 4,400 changes to the Code over the past 10 years — an average of more than one a day — and an estimated 579 changes in 2010 alone.[15]

Tax laws enacted since 1986 have served a variety of policy goals, including, for example:

Deficit reduction: Omnibus Budget Reconciliation Act of 1993; Balanced Budget Act of 1997; Deficit Reduction Act of 2005

Disaster relief: Victims of Terrorism Tax Relief Act of 2001; Katrina Emergency Tax Relief Act of 2005; Gulf Opportunity Zone Act of 2005; James Zadroga 9/11 Health and Compensation Act of 2010

Economic growth: Taxpayer Relief Act of 1997; Economic Growth and Tax Relief Reconciliation Act of 2001; Job Creation and Worker Assistance Act of 2002; Jobs and Growth Tax Relief Reconciliation Act of 2003; Working Families Tax Relief Act of 2004; Economic Stimulus Act of 2008; American Recovery and Reinvestment Act of 2009; Hiring Incentives to Restore Employment Act; Small Business Jobs Act of 2010

Energy incentives: Energy Policy Act of 1992; Energy Tax Incentives Act of 2005

[13] Economic Stimulus Act of 2008 (Pub. Law 110-185); American Recovery and Reinvestment Tax Act of 2009 (Pub. Law 111-5); and Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (Pub. Law 111-312).
[14] Disaster Relief and Emergency Assistance Amendments of 1988 (Pub. Law 100-707); Katrina Emergency Tax Relief Act of 2005 (Pub. Law 109-73); Haiti Economic Lift Program Act of 2010 (Pub. Law 111-171).
[15] National Taxpayer Advocate's 2010 Annual Report to Congress, December 31, 2010.

Health: Health Insurance Portability and Accountability Act of 1996; Children's Health Insurance Program Reauthorization Act of 2009; Patient Protection and Affordable Care Act

Response to WTO trade challenge: American Jobs Creation Act of 2004

Retirement savings: Pension Protection Act of 2006

The accumulation of tax law changes over time has created a disjointed Code. Despite the good intentions underlying the provisions, they result in substantial complexity and are difficult for taxpayers to use and for the Internal Revenue Service (the "IRS") to administer. Some provisions are duplicative and have overlapping objectives. For example, there are a dozen different tax preferences for education, with different eligibility criteria and different benefits.[16] In addition, the Code contains numerous tax-preferred savings vehicles.[17] While the value of a good education and saving for retirement is well understood in this country, how to take advantage of the tax incentives is difficult for taxpayers because of the confusing array of provisions.

The Code also contains provisions that have operated in ways not originally envisioned. The AMT was first enacted in 1969 to ensure that a small group of high-income individuals would pay at least a minimum amount of tax. Because the AMT exemption is not indexed, and because certain itemized deductions are not allowed in computing the AMT, more and more middle-income Americans are potentially subject to this tax. Periodically, the Congress has to "patch" the AMT to keep the number of Americans subject to the AMT from rising dramatically.

The primary reason that the Code has become the vehicle of choice for social and economic policy changes is that, as our fiscal situation has worsened and pressure has been applied to limit new spending initiatives, the Code has become an alternative means to achieve those policy objectives. While there is significantly increased scrutiny placed on new spending programs, and they have come to represent "bigger government," tax incentives and preferences are somewhat less visible. A targeted tax reduction is, however, as much a decision by government to allocate resources to a specific priority or initiative as a direct spending measure. Either one will require less spending elsewhere in the federal budget, or higher taxes, to compensate for that decision. Politically, however, it has become much easier to provide that benefit through the Code than through direct spending.

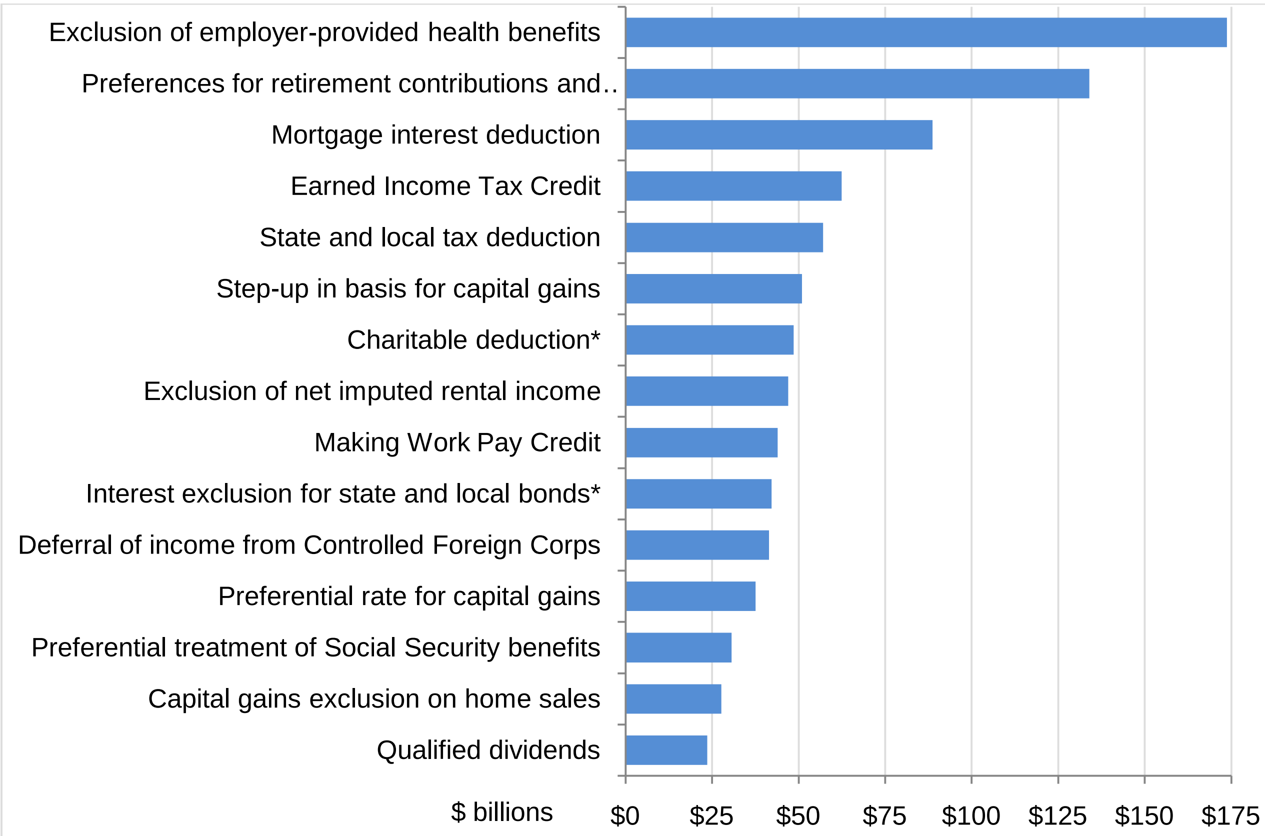
Moreover, as previously mentioned, it is difficult to remove tax incentives from the Code. All changes to the tax system are compared with the status quo. If there is an identifiable benefit a particular constituency risks losing, the constituency will alert policymakers. Since the provision was put in the Code for persuasive reasons when enacted, the arguments to retain the provision will likely be successful. Furthermore, the benefits to the overall tax system of eliminating provisions are not easily quantifiable. The message of higher growth attributable to lower fiscal burdens and a more pro-growth tax system is much harder to quantify and explain than the detriment to a particular constituency of losing an existing tax preference.

What is important to recognize, however, is that when considering comprehensive tax reform, such as broadening the tax base and lowering marginal tax rates, the type of tax provisions that will be under consideration are not "loopholes". The major tax expenditures are tax provisions

[16] Congressional Research Service, *An Overview of Tax Benefits for Higher Education Expenses,* January 3, 2005.
[17] National Taxpayer Advocate's 2008 Annual Report to Congress, December 31, 2008.

that for the most part have been in the Code a long time, and were carefully debated and added to the Code to achieve specific policy objectives, as discussed above (see Chart 6). When modifying or reducing either tax preferences or direct spending, lawmakers must consider the underlying social policy or economic policy the provision was meant to promote.

Chart 6. OMB Largest Tax Expenditures, Fiscal Year 2011



** Denotes that tax expenditure includes both corporate and individual tax expenditure components.*
Note: Estimates were based on current law prior to December 2010 tax act.
Source: Estimates of Federal Tax Expenditures for Fiscal Years 2012-2016, Analytical Perspectives.

4. Cumulative effect of changing budget and legislative processes

Federal budget rules and procedures, as well as the tax legislative process, have played significant roles in the development of tax policy. The result has been the increased use of temporary tax provisions, the phasing in and phasing out of tax laws, enactment of tax laws with limited legislative history, and an increase in tax proposals being based more on the need for revenue offsets, rather than emanating from tax policy principles.

Influence of federal budget rules and procedures on tax policy

As the federal government has struggled to control public spending and budget deficits over the years, Congress has established restrictive budget rules and procedures. The budget rules are derived from both statutory laws and procedural rules of Congress. They include the Congressional Budget and Impoundment Control Act of 1974 (the "Budget Act"),[18] the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings),[19] the Budget Enforcement Act of 1990,[20] the Statutory Pay-As-You-Go Act of 2010 (the "Statutory PAYGO Act"),[21] the "Byrd rule" in the Senate, the budget resolution and budget reconciliation processes, and various forms of pay-as-you-go ("PAYGO") procedural rules in the House and Senate.

Since the Budget Act, the federal budget rules have undergone a series of changes. A key element of this regime has been the establishment of a budget window, the time period over which estimated revenue effects of legislation are evaluated. Over the years, the length of the budget window has varied between five and ten years. A provision that expires before the end of such a multi-year window is said to sunset.

The Budget Act establishes a budget process with detailed instructions and timelines. It provides for the drafting of an annual budget resolution, which, if agreed to by the House and Senate, serves as the blueprint for fiscal policy and establishes a framework for consideration of spending and revenue bills for the year. Part of the budget resolution contains budget enforcement language. Because a budget resolution is basically an in-house document, it can include new rules for the House or Senate (or both) to follow in the budget process. A prime example of this is the PAYGO rule. PAYGO refers to the requirement that all increases in direct spending or tax cuts be fully offset with new tax increases or entitlement spending cuts. PAYGO was not part of the original Budget Act. It passed as part of a budget resolution in the early 1990s. It expired in 2002 and then was reinstated in 2007 by the 110th Congress. In February of 2010, President Obama signed the Statutory PAYGO Act, the purpose of which was to reestablish a statutory mechanism to require revenue and direct spending legislation considered during a Congressional session to be budget neutral.

While budget resolutions establish enforceable revenue targets and spending limits, they can also make allowances for the possible consideration of deficit neutral legislation on a certain subject without violating those budget limits.

The budget reconciliation process is a process where committees are directed in the budget resolution to make changes to laws to achieve spending and revenue targets provided for in the budget resolution. The reconciliation process provides for limitations on the time for consideration of reconciliation measures on the Senate floor.

Most important from a legislative strategy perspective is the fact that reconciliation bills require only a simple majority vote in the Senate for passage, where most other legislation can be subject to a 60-vote hurdle. Importantly, however, 60 votes are required to waive violations of the Byrd rule (named for the rule's author, the late Senator Robert C. Byrd), which requires, among other things, that any spending or revenue bills not increase budget deficits for periods outside the budget window, which is usually a ten-year period. The Byrd rule also imposes a 60-vote hurdle on provisions that do not produce a change in outlays or revenues.

[18] The Congressional Budget and Impoundment Control Act of 1974, Pub. Law 93-344.
[19] The Balanced Budget and Emergency Deficit Control Act of 1985, Pub. Law 99-177.
[20] Pub. Law 101-508.
[21] The Statutory Pay-As-You-Go Act of 2010, Pub. Law 111-139.

The budget reconciliation process was established to facilitate consideration of deficit reduction measures in Congress, and particularly in the Senate. As a result of a Senate parliamentary ruling in the mid-1990s, the process began to be used as a means to pass other legislation, including major tax cuts.

The federal budget rules, along with political compromise, played a major role in the development and ultimate enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA)[22]. In the spring of 2001, President Bush released his tax proposals which called for reducing individual income tax rates, eliminating the estate tax, making the R&D credit permanent, doubling the child credit, reducing the marriage penalty, and making other significant changes to the Code. The tax provisions were proposed to be permanent.

Due in large part to the difficulty in navigating the tax proposals through a closely divided Senate, Congress considered the tax bill as part of the budget reconciliation process, discussed above. In the Senate, the tax bill had the support of most Republican Senators, as well as some Democratic Senators. However, the tax bill did not have the support of 60 Senators. This influenced the bill, since any Senator could raise a point of order under the Byrd rule that the bill had the effect of increasing the federal deficit beyond the ten-year budget window. If such a point of order was raised, and a motion to waive the point of order failed to get 60 votes, the entire bill would fail. Accordingly, in large part to avoid the point of order, all tax provisions in the bill were set to sunset at the end of the budget window. Moreover, many provisions were phased in or had delayed effective dates in order to prevent points of order from being raised.

The Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA)[23] was also significantly affected by the federal budget rules. JGTRRA was evaluated over the budget window 2003-2013. The bill included additional marriage penalty relief, increased small business expensing, and reduced taxation of capital gains and dividends, all of which were scheduled to expire by design in later years. The scheduled expiration of these provisions was not a result of tax policy considerations, but rather resulted from the application of the budget rules. While sunsets may reflect rational behavior on the part of lawmakers seeking to comply with the existing budget restrictions and procedures, they have contributed uncertainty that is difficult to reconcile with tax policy's usual objectives of raising revenue as simply and efficiently as possible.

Some tax bills have effective dates that exist only to meet revenue targets established by the budget rules. For instance, bills such as the Small Business and Work Opportunity Tax Act of 2007[24] that increase or move estimated tax payment dates for corporations, or bills such as the Hiring Incentives to Restore Employment Act of 2010[25] that delay the effective date of provisions (e.g., the worldwide interest allocation rules), are enacted to meet revenue targets rather than to achieve a tax policy goal.

The Code also contains an ever-increasing number of provisions that are temporary, in part because of the significance of the estimated cost of making them permanent, or because it would be difficult for Congress to agree on politically viable offsets to meet the various PAYGO rules. These include many business and individual provisions such as the R&D credit, the state and

[22] Pub. Law 107-16.
[23] Pub. Law 108-27.
[24] Pub. Law 110-28.
[25] Pub. Law 111-147.

local sales tax deduction, and the exception to the Code's Subpart F rules for active financing income. This results in significant uncertainty for those taxpayers who rely on these provisions, including uncertainty in financial reporting for businesses.

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010[26] (signed into law in December 2010) retroactively extended a number of provisions as of January 1, 2010, resulting in businesses having in some cases to record the entire financial benefit of provisions in the quarter the law was enacted, as opposed to ratably throughout the year. The bill also included the extension of individual provisions, including the 2001/2003 tax relief through 2012, as well as an extension of the AMT patch through 2011, among its dozens of temporary provisions. The scores of business and individual tax provisions that are temporary in nature, with no guarantee of being extended, contribute to enormous uncertainty for businesses and individuals.

With these temporary provisions in the Code, there is no permanent set of rules governing the tax consequences associated with wages and salaries, capital gains, dividends, and payroll taxes, as well as numerous targeted tax provisions assisting families, workers, and businesses. Temporary provisions add complexity and uncertainty to the Code, requiring lawmakers to spend a significant amount of time annually or biannually in the process of considering legislation related to extending them. Moreover, individuals and businesses do not have stable tax rules that they can rely upon for future income tax and estate planning.

Finally, as a result of these budget rules and processes, many permanent tax increases have been enacted to pay for temporary tax provisions. For instance, in the Tax Relief Extension Act of 1999,[27] the repeal of the installment method for most accrual basis taxpayers and changes to the tax treatment of derivatives were used to pay for a temporary extension of certain expiring provisions, including the R&D credit.

Influence of tax legislative process on tax policy

The tax legislative process has also changed significantly since 1986. There have been changes in the number and depth of Committee and Subcommittee hearings, mark-ups and other deliberations on proposed tax legislation. There has also been a reduction in Senate Finance and House Ways and Means committee reports detailing the intent of policymakers with regard to tax legislation. The staff of the Joint Committee on Taxation and the staffs of the Senate Finance Committee and House Ways and Means Committee include technical experts who are well versed in tax policy and tax technical issues. The Committee Reports they write provide valuable insights into the thinking of policymakers in passing legislation and explain the issues surrounding the changes in law.

Because of the size and complexity of the Code and the number of legislative changes requiring significant administrative guidance, it is difficult for the Treasury Department to keep pace in issuing enough administrative guidance to interpret and help implement new provisions. Many provisions of the Code, therefore, currently lack guidance years after enactment. Moreover, the increasing burdens placed on the IRS to administer complicated provisions in non-tax areas, as

[26] Pub. Law 111-312.
[27] Pub. Law 106-170.

well as administer other increasingly complicated rules, has placed a significant burden on IRS resources.

While citing these changes, we recognize the recent announcement by Chairman Baucus to return to Committee hearings and Committee mark-ups as a regular practice, as well as his notification to the Finance Committee that tax legislation will not proceed under Rule 14, which allows legislation to go directly to the Senate floor without going through the Committee.

Another recent tax legislative process phenomenon is the enactment of tax provisions as offsets to the cost of spending programs as those spending bills move through the Congress. Last year, for example, a set of international tax increases, including the "foreign tax splitter" provision, were enacted as part of a non-tax bill to fund education and Medicare items.[28] The fact that these tax provisions were used as part of a spending bill to fund Federal Medicare Assistance and other government spending (and not tax relief) was unexpected. Moreover, without opportunity for public comment on the statutory language, the foreign tax credit splitter provision was drafted in a way that left substantial uncertainty about the scope of the provision, with much being left to IRS interpretation. Although the IRS issued guidance that narrowed the scope for pre-2011 years, uncertainty still exists about its scope for 2011 and thereafter.

Another example is the expansion of the Form 1099 reporting requirement in last year's health care legislation. Less than a year later, a proposal to repeal the requirement before it takes effect has bipartisan support. Policymakers desiring to address the tax gap may not have fully appreciated the burdens the provision would impose.

In summary, the federal budget rules and procedures, as well as the changed tax legislative process, have significantly influenced the Code over the years in a manner not always consistent with sound tax policy.

5. Worsening fiscal situation

We are all aware of the fiscal challenges our nation faces. In part as a result of the recent financial crisis, we have a large budget deficit in the near-term — 9% to 10% of GDP. With all of the recent attention on this topic in the Senate, the Congress at large and across the United States, we will not cover this topic in depth here. However, there are some important points worth noting.

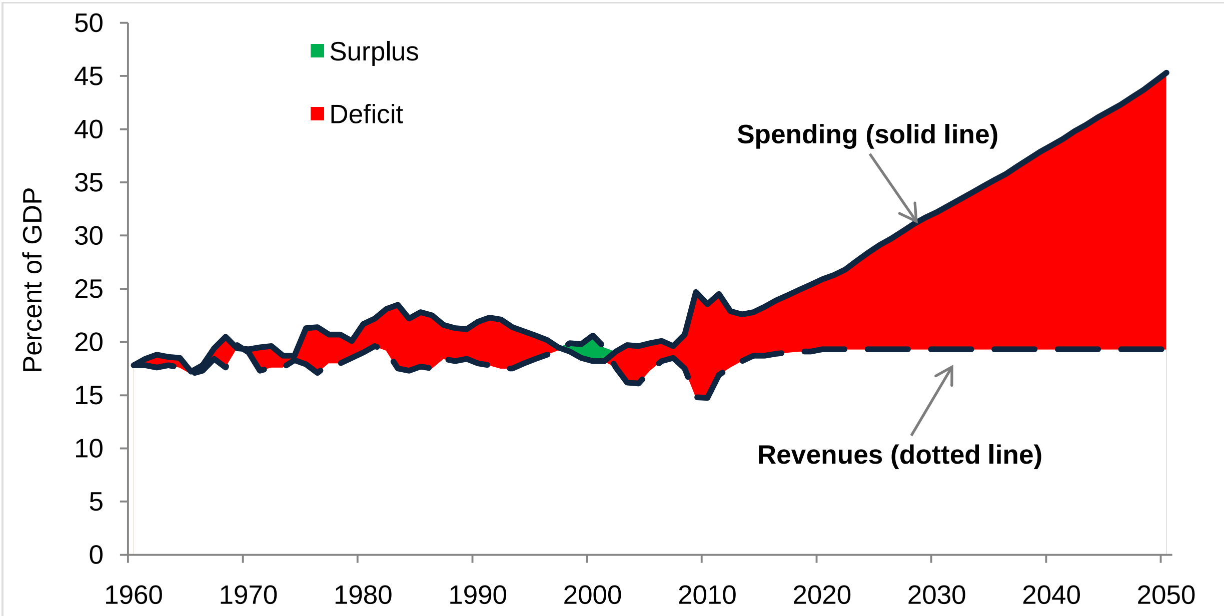
Over the longer term, the fiscal condition will worsen due to the rise in entitlement spending, primarily Medicare, Medicaid and, to some extent, Social Security (see Chart 7). The longer-term problem is fundamentally caused by the aging of the U.S. population and the rapid growth in health care costs.

To address our fiscal situation, policymakers are debating about how to manage discretionary and mandatory spending. At the same time, policymakers are considering the amount of revenues needed by our government and the features of the tax system itself. This attention to both the spending and the revenue sides of the ledger has contributed to the increased focus on tax reform.

---

[28] Legislation commonly referred to as the Education Jobs and Medicaid Assistance Act ("EJMAA"), enacted on August 10, 2010 (Pub. Law 111-226).

Chart 7. Federal government spending and revenues as a percentage of GDP



Note: Projections are for the CBO's alternative fiscal scenario. Actual Treasury data are shown for FY2010.
Sources: Congressional Budget Office, "The Long-Term Budget Outlook" (June 2010 – for projected data); Department of the Treasury, Monthly Treasury Statement (September 2010 – for FY2010 revenue and deficit only); Office of Management and Budget, Historical Tables of the "President's Proposed Budget for FY2012" (February 2011 – for historical data).

The President's Fiscal Responsibility Commission last year detailed the deteriorating fiscal situation and proposed an illustrative set of reforms.[29] Its proposal would "bend the cost curve" for the major entitlement programs in ways that would slow the growth in spending and put it on a more sustainable path. At the same time, its proposals would reform the Code and raise more revenue. While the historical relationship of revenues to the size of the economy has averaged roughly 18% over the post-World War II period, the proposal put forward by the Commission would increase federal revenues to 21% of GDP. At the same time, spending would be lowered to 23% of GDP. The Commission's plan is intended to put the nation back on a fiscally sustainable path. The plan is illustrative of the difficult choices that our country will need to make in trying to balance the need to both reform the Code and address the nation's long-term fiscal imbalance.

Another reason tax reform is being discussed in the context of deficit reduction is because a substantial amount of preferences is provided through the Code. Consideration of changes in federal government spending and changes to specific spending programs should take into account the more than $1 trillion in preferences provided through the Code annually.

One aspect of tax reform to keep in mind is that although these special provisions may be well-intentioned, together they substantially reduce the size of the tax base, by roughly 50% in some estimates,[30] and require higher tax rates to raise a given amount of revenue. The tradeoff between

[29] National Commission on Fiscal Responsibility and Reform, *The Moment of Truth*, December 1, 2010.
[30] Report of the President's Advisory Panel on Federal Tax Reform, *Simple, Fair, and Pro-Growth:*

tax rates and the breadth of the tax base also affects the revenue efficiency of the tax system because higher tax rates can reduce the size of the tax base through the distorting effect they have on household and business decisions.[31] Lowering tax rates can reduce the distorting effects of the tax system.

Another feature of the Code that affects revenue efficiency is information reporting and other measures to address the tax gap. Generally, more information reporting translates into improved compliance. However, this can be a double-edged sword. More information reporting to increase the compliance rate can also mean larger compliance burdens for taxpayers. Thus, a delicate balance needs to be struck between the information gathered by the IRS for enforcement and compliance and the additional burden imposed on taxpayers by additional reporting requirements.

Conclusion

The fundamental elements of our current tax system are the product of events and vigorous debate that have taken place over a long period of time. The Code has been augmented, patched, clarified, and otherwise tweaked. It has been amended to provide additional incentives, to address inequities and unintended consequences, or simply to raise revenue. As a result, the system has developed into an overly complicated set of rules that has evolved largely without sufficient analysis or debate regarding the long-term competitive effect or alignment with worldwide tax policy trends. This observation is not intended as a criticism of the process, but merely a recognition of the practical and political realities.

Throughout the evolution of our tax system, the way the world does business has been changing at an extraordinary pace. New industries have been created. New markets have opened. The flow of capital has shifted. New economic powers have arisen. These developments are transforming the landscape for business in the United States and around the world. As a result, U.S. tax policy decisions, which have historically been made without great concern about what has been happening beyond our borders, can no longer be made in a vacuum.

Recently, the principal discussion of tax reform has been about the corporate tax system. Corporate tax reform has significant ramifications for U.S. businesses, American workers and the U.S. economy that must be fully debated and understood. Increasingly it is being recognized that with such a large percentage of U.S. business income being earned by flow-through entities and sole proprietorships, that the tax reform debate cannot be limited to corporate taxes.

We believe that tax reform needs to take account of the changing way American businesses operate and the impact foreign competition increasingly plays in their success here and abroad. One thing taxpayers and policymakers of both political parties can agree on is that tax laws should not disadvantage American workers, businesses or consumers.

As we embark on the tax reform debate, it is important that the discussion not be overtaken by rhetoric. Some may suggest that the current preferences are “loopholes.” They are by and large not loopholes. To meaningfully reduce statutory tax rates without significant budget

Proposals to Fix America’s Tax System, November 2005, p. 23.

[31] For example, see Robert Carroll and Warren Hrung, "What Does the Taxable Income Elasticity Say About Dynamic Responses to Tax Changes?" *American Economic Review*, 95(2), 2005, pp. 426–431.

consequences, it would require addressing preferences that have been included in the Code with deliberation and intention. They are some of the primary instruments we use to influence social and economic policy — including, for example, education, savings, income redistribution and investment in certain areas or industries.

Our unprecedented fiscal deficits and national debt require us to comprehensively re-evaluate our spending and tax priorities. Since so many policy objectives are implemented through both spending and tax policies, each should be considered in conjunction with the other. The imperative of attaining a more pro-growth and efficient tax system is even greater in the face of our long-term fiscal situation.

Finally, we would like to commend the Chairman for the approach he has laid out for addressing comprehensive tax reform in this Committee. The thorough process you have laid out — to assess current state, consider changes, involve stakeholders, and then proceed with comprehensive reform — is the appropriate approach to construct tax policy. Over the years, the budget and legislative processes have played significant roles in how tax policy has evolved. They undoubtedly will play a role here. The tax reform process will need to be navigated and well orchestrated in order to ensure that the end result is a stable, long-term reform that can respond to the changed environment and withstand the test of time.

Warren Buffett recently said in his annual shareholder letter, “The prophets of doom have overlooked the all important factor that is certain … human potential is far from exhausted, and the American system for unleashing that potential — a system that has worked wonders for over two centuries … remains alive and effective.” Our tax system has been with us since the early 1900s. It was reformed in the early 1900s, 1954, 1969, early 1980s, and most recently 1986 — 25 years ago. It is time to reexamine and update it again, with an eye to unleash the potential of American workers and businesses.

Appendix 1

Selected Comparison of Bush and Obama Administrations' Budget Revenue Proposals

General Explanation of the Administration's FY 2009 Revenue Proposals (02/01/2008)

In 2008, the tax provisions in the last budget proposal submitted by the Bush Administration contained the following proposals:

- make the 2001/2003 tax relief permanent
- simplify and encourage savings (e.g., expand tax-free savings opportunities, and consolidate employer-based savings accounts)
- encourage entrepreneurship and investment (e.g., increase expensing for small business)
- invest in health care (e.g., a new standard deduction for health insurance, expand and make health savings accounts (HSAs) more flexible)
- provide incentives for charitable giving (e.g., permanently extend tax-free withdrawals from IRAs for charitable contributions, permanently extend the enhanced deduction for corporate contributions of computer equipment)
- strengthen education (e.g., allow the Saver's Credit for contributions to qualified tuition programs)
- strengthen housing (e.g., allow tax-exempt bonds to refinance home mortgages to provide relief for subprime borrowers)
- protect the environment (e.g., eliminate the volume cap for private activity bonds for water infrastructure)
- restructure assistance to New York City
- simplify the tax laws for families (e.g., clarify the uniform definition of child, simplify the earned income tax credit)
- improve tax compliance
- expand information reporting
- strengthen tax administration

General Explanation of the Administration's FY 2010 Revenue Proposals (05/09/2009)

In the next year, with a dramatic shift in the political landscape, the first budget proposal submitted by the Obama Administration contained the following proposals:

- provide tax cuts for families and individuals (e.g., create a "making work pay" credit, expand the EITC, expand the refundability of the child tax credit, expand the Saver's Credit, create the "American Opportunity Tax Credit")
- provide tax cuts for business (e.g., eliminate capital gains taxation on investment in small business stock)
- increase tax on upper-income taxpayers and dedicate the revenue to deficit reduction (e.g., reinstate the 39.6% rate, reinstate the 36% rate for taxpayers with income over $250,000, reinstate the limitation on itemized deductions and the personal exemption phase-out, impose a 20% rate on dividends and capital gains for taxpayers with income over $250,000)
- make permanent the R&D tax credit
- expand the net operating loss carryback
- enact revenue changes and loophole closers (e.g., reinstate the Superfund excise tax, tax carried interest as ordinary income, repeal the Last-In, First-Out (LIFO) method of accounting, eliminate oil and gas company preferences)
- reform the U.S. international tax system (e.g., defer deduction on certain expenses, reform the foreign tax credit rules, limit shifting of income through intangible property transfers, limit earnings stripping by expatriated entities, repeal the 80/20 rules, and modify the tax rules for dual capacity)
- expand penalties and make reforms to close loopholes
- restructure assistance to New York City
- reduce the tax gap (e.g., expand information reporting)

Appendix 2

Tax Laws Enacted Since Tax Reform Act of 1986

Public Law No.	Date	**Statutes Enacted by the 99th Congress – 2nd Session**
99-595	10-31-86	To extend the exclusion from Federal unemployment tax wages paid to certain alien farmworkers
99-640	11-10-86	Coast Guard Authorization Act of 1986
99-662	11-17-86	Water Resources Development Act of 1986
		Statutes Enacted by the 100th Congress – 1st Session
100-17	4-2-87	Surface Transportation and Uniform Relocation Assistance Act of 1987
100-202	12-22-87	To make further continuing appropriations for the ’88 fiscal year, and for other purposes
100-203	12-22-87	Omnibus Budget Reconciliation Act of 1987
100-223	12-30-87	Airport and Airway Safety and Capacity Expansion Act of 1987
		Statutes Enacted by the 100th Congress – 2nd Session
100-360	7-1-88	Medicare Catastrophic Coverage Act of 1988
100-418	8-23-88	Omnibus Trade and Competitiveness Act of 1988
100-448	9-28-88	Coast Guard Authorization Act of 1988
100-485	10-13-88	Family Support Act of 1988
100-647	11-10-88	Technical and Miscellaneous Revenue Act of 1988 (TAMRA)
100-690	11-18-88	Anti-Drug Abuse Act of 1988
100-707	11-23-88	Disaster Relief and Emergency Assistance Amendments of 1988
		Statutes Enacted by the 101st Congress – 1st Session
101-73	8-9-89	Financial Institutions Reform, Recovery, and Enforcement Act of 1989
101-140	11-8-89	Repeal of Code Sec. 89 Non-discrimination Rules
101-179	11-28-89	Support for East European Democracy (SEED) Act of 1989
101-194	11-30-89	Ethics Reform Act of 1989
101-221	12-12-89	Steel Trade Liberalization Program Implementation Act
101-234	12-13-89	Medicare Catastrophic Coverage Repeal Act of 1989
101-239	12-19-89	Omnibus Budget Reconciliation Act of 1989
		Statutes Enacted by the 101st Congress – 2nd Session
101-280	5-4-90	Technical Corrections to the Ethics Reform Act of 1989
101-380	8-18-90	Oil Pollution Act of 1990
101-382	8-20-90	Customs and Trade Act of 1990
101-508	11-5-90	Omnibus Budget Reconciliation Act of 1990
101-509	11-5-90	Treasury, Postal Service and General Government Appropriations Act of 1991
101-604	11-16-90	Aviation Security Improvement Act of 1990
101-624	11-28-90	Food, Agriculture, Conservation and Trade Act of 1990
101-647	11-29-90	Crime Control Act of 1990
101-649	11-29-90	Immigration Act of 1990

Public Law No.	Date	**Statutes Enacted by the 102nd Congress – 1st Session**
102-2	1-30-91	Armed Forces Taxes
102-40	5-7-91	Department of Veterans Affairs Health-Care Personnel Act of 1991
102-54	6-13-91	Veterans programs for housing and memorial affairs
102-90	8-14-91	Appropriations for the Legislative Branch for the fiscal year ending 9-30-92
102-107	8-17-91	Emergency Unemployment Compensation Act of 1991
102-164	11-15-91	Emergency Unemployment Compensation Act of 1991
102-227	12-11-91	Tax Extension Act of 1991
102-240	12-18-91	Surface Transportation Revenue Act of 1991
		Statutes Enacted by the 102nd Congress – 2nd Session
102-244	2-7-92	Extension of Unemployment Benefits
102-318	7-3-92	Unemployment Compensation Amendments of 1992
102-393	10-6-92	Appropriations for the Treasury Department, U.S. Postal Service, Executive Office of President, etc. for the fiscal year ending September 30, 1993
102-486	10-24-92	Energy Policy Act of 1992
102-568	10-29-92	Veterans' Benefits Act of 1992
102-581	10-31-92	Airport and Airway Safety, Capacity, Noise Improvement and Intermodal Transportation Act of 1992
		Statutes Enacted by the 103rd Congress – 1st Session
103-66	8-10-93	Omnibus Budget Reconciliation Act of 1993
103-149	11-23-93	South African Democratic Transition Support Act of 1993
103-178	12-3-93	Intelligence Authorization Act for Fiscal Year 1994
103-182	12-8-93	North American Free Trade Agreement Implementation Act
		Statutes Enacted by the 103rd Congress – 2nd Session
103-260	5-26-94	Airport Improvement Program Temporary Extension Act of 1994
103-272	7-5-94	Codification of Certain U.S. Transportation Laws as Title 49, United States Code
103-296	8-15-94	Social Security Independence and Program Improvements Act of 1994
103-305	8-23-94	Federal Aviation Administration Authorization Act of 1994
103-322	9-13-94	Violent Crime Control and Law Enforcement Act of 1994
103-337	10-5-94	National Defense Authorization Act for Fiscal Year 1995
103-387	10-22-94	Social Security Domestic Employment Reform Act of 1994
103-429	10-31-94	To codify without substantive change recent laws related to transportation and to improve the United States Code
103-465	12-8-94	Uruguay Round Agreements Act
		Statutes Enacted by the 104th Congress – 1st Session
104-7	4-11-95	Self-Employed Health Insurance Act
104-88	12-29-95	ICC Termination Act of 1995

Public Law No.	Date	**Statutes Enacted by the 104th Congress – 2nd Session**
104-117	3-20-96	To provide that members of the Armed Forces performing services for the peacekeeping efforts in Bosnia and Herzegovina, Croatia and Macedonia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone
104-134	4-26-96	Omnibus Consolidated Rescissions and Appropriations Act of 1996
104-168	7-30-96	Taxpayer Bill of Rights
104-188	8-20-96	Small Business Job Protection Act of 1996
104-191	8-21-96	Health Insurance Portability and Accountability Act of 1996
104-193	8-22-96	Personal Responsibility and Work Opportunity Reconciliation Act of 1996
104-201	9-23-96	National Defense Authorization Act for Fiscal Year 1997
104-264	10-9-96	Federal Aviation Reauthorization Act of 1996
104-316	10-19-96	General Accounting Office Act of 1996
		Statutes Enacted by the 105th Congress – 1st Session
105-2	2-28-97	Airport and Airway Trust Fund Tax Reinstatement Act of 1997
105-33	8-5-97	Balanced Budget Act of 1997
105-34	8-5-97	Taxpayer Relief Act of 1997
105-35	8-5-97	Taxpayer Browsing Protection Act
105-61	10-10-97	Appropriations for the Treasury Dept., the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending 9-30-98, and for other purposes
105-65	10-27-97	Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1998
105-78	11-13-97	Appropriations for the Depts. of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending 9-30-98, and for other purposes
105-102	11-20-97	To codify without substantive change laws related to transportation and to improve the United States Code
105-115	11-21-97	Food and Drug Administration Modernization Act of 1997
105-130	12-1-97	Surface Transportation Extension Act of 1997
		Statutes Enacted by the 105th Congress – 2nd Session
105-178	6-9-98	Transportation and Equity Act for the 21st Century
105-206	7-22-98	IRS Restructuring and Reform Act of 1998
105-277	10-21-98	Tax and Trade Relief Extension Act of 1998
105-306	10-28-98	Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998
		Statutes Enacted by the 106th Congress – 1st Session
106-21	4-19-99	To extend the tax benefits available with respect to services performed in a combat zone to services performed in the Federal Republic of Yugoslavia (Serbia/Montenegro) and certain other areas
106-36	6-25-99	Miscellaneous Trade and Technical Corrections Act of 1999
106-78	10-22-99	Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2000
106-170	12-17-99	Tax Relief Extension Act of 1999

Public Law No.	Date	**Statutes Enacted by the 106th Congress – 2nd Session**
106-81	4-5-00	Wendell H. Ford Aviation and Investment Reform Act for the 21st Century
106-200	5-18-00	Trade and Development Act of 2000
106-230	7-1-00	To require Code Section 527 organizations to disclose their political activities
106-408	11-1-00	Fish and Wildlife Programs Improvement and National Wildlife Refuge System Centennial Act of 2000
106-476	11-9-00	Tariff Suspension and Trade Act of 2000
106-519	11-15-00	FSC Repeal and Extraterritorial Income Exclusion Act of 2000
106-554	12-21-00	Consolidated Appropriations Act 2001
106-573	12-28-00	Installment Tax Correction Act of 2000
		Statutes Enacted by the 107th Congress – 1st Session
107-15	6-5-01	Fallen Hero Survivor Benefit Fairness Act of 2001
107-16	6-7-01	Economic Growth and Tax Relief Reconciliation Act of 2001
107-22	7-26-01	To rename the education individual retirement accounts as the Coverdell education savings accounts
107-67	11-12-01	Treasury and General Government Appropriations Act, 2002
107-71	11-19-01	Aviation and Transportation Security Act
107-90	12-21-01	Railroad Retirement and Survivors' Improvement Act of 2001
107-110	1-8-02	No Child Left Behind Act of 2001
107-116	1-10-02	Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 2002
107-131	1-16-02	To simplify the reporting requirements relating to higher education tuition and related expenses
107-134	1-23-02	Victims of Terrorism Tax Relief Act of 2001
		Statutes Enacted by the 107th Congress – 2nd Session
107-147	3-9-02	Job Creation and Worker Assistance Act of 2002
107-181	5-20-02	Clergy Housing Allowance Clarification Act of 2002
107-210	8-6-02	Trade Act of 2002
107-217	8-21-02	To revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as Title 40, United States Code, "Public Buildings, Property, and Works"
107-276	11-2-02	To amend Section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees
107-296	11-25-02	Homeland Security Act of 2002
107-330	12-6-02	Veterans Benefits Act of 2002
107-358	12-17-02	Holocaust Restitution Tax Fairness Act of 2002

Public Law No.	Date	**Statutes Enacted by the 108th Congress – 1st Session**
108-27	5-28-03	Jobs and Growth Tax Relief Reconciliation Act of 2003
108-81	9-25-03	Museum and Library Services Act of 2003
108-88	9-30-03	Surface Transportation Extension Act of 2003
108-89	10-1-03	To extend the Temporary Assistance for Needy Families block grant program, and certain tax and trade programs, and for other purposes
108-121	11-11-03	Military Family Tax Relief Act of 2003
108-173	12-8-03	Medicare Prescription Drug, Improvement, and Modernization Act of 2003
108-176	12-12-03	Vision 100 – Century of Aviation Reauthorization Act
108-178	12-15-03	To improve the United States Code
108-189	12-19-03	Service Members Civil Relief Act
		Statutes Enacted by the 108th Congress – 2nd Session
108-202	2-29-04	Surface Transportation Extension Act of 2004
108-203	3-2-04	Social Security Protection Act of 2004
108-218	4-10-04	Pension Funding Equity Act of 2004
108-224	4-30-04	Surface Transportation Extension Act of 2004, Part II
108-263	6-30-04	Surface Transportation Extension Act of 2004, Part III
108-280	7-30-04	Surface Transportation Extension Act of 2004, Part IV
108-310	9-30-04	Surface Transportation Extension Act of 2004, Part V
108-311	10-4-04	Working Families Tax Relief Act of 2004
108-357	10-22-04	American Jobs Creation Act of 2004
108-375	10-28-04	Ronald W. Reagan Defense Authorization Act for Fiscal Year 2005
108-429	12-3-04	Miscellaneous Trade and Technical Corrections Act of 2004
108-476	12-21-04	To treat certain arrangements maintained by the YMCA Retirement Fund as church plans for the purposes of certain provisions of the Internal Revenue Code of 1986, and for other purposes
108-493	12-23-04	To amend the Internal Revenue Code of 1986 to modify the taxation of arrow components

Public Law No.	Date	**Statutes Enacted by the 109th Congress – 1st Session**
109-1	1-7-05	To accelerate the income tax benefits for charitable cash contributions for the relief of victims of the Indian Ocean Tsunami
109-6	3-31-05	To amend the Internal Revenue Code of 1986 to extend the Leaking Underground Storage Tank Trust Fund financing rate
109-7	4-15-05	To amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments
109-14	5-31-05	Surface Transportation Extension Act of 2005
109-20	7-1-05	Surface Transportation Extension Act of 2005, Part II
109-35	7-20-05	Surface Transportation Extension Act of 2005, Part III
109-37	7-22-05	Surface Transportation Extension Act of 2005, Part IV
109-40	7-28-05	Surface Transportation Extension Act of 2005, Part V
109-42	7-30-05	Surface Transportation Extension Act of 2005, Part VI
109-58	8-8-05	Energy Tax Incentives Act of 2005 (title XIII of the Energy Policy Act of 2005)
109-59	8-10-05	Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users (Transportation Act of 2005)
109-73	9-23-05	Katrina Emergency Tax Relief Act of 2005
109-74	9-29-05	Sportfishing and Recreational Boating Safety Amendments Act of 2005
109-135	12-21-05	Gulf Opportunity Zone Act of 2005
109-151	12-30-05	To amend title 1 of ERISA, title XXVII of the Public Health Service Act, and the Internal Revenue Code to extend by one year provisions requiring parity in the application of certain limits to mental health benefits
		Statutes Enacted by the 109th Congress – 2nd Session
109-171	2-8-06	Deficit Reduction Act of 2005
109-222	5-17-06	Tax Increase Prevention and Reconciliation Act of 2005
109-227	5-29-06	Heroes Earned Retirement Opportunities Act
109-241	7-12-06	Coast Guard and Maritime Transportation Act of 2006
109-280	8-17-06	Pension Protection Act of 2006
109-432	12-20-06	Tax Relief and Health Care Act of 2006
		Statutes Enacted by the 110th Congress – 1st Session
110-28	5-25-07	Small Business and Work Opportunity Tax Act of 2007
110-42	6-30-07	Andean Trade Preference Act
110-52	8-1-07	Approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003
110-138	12-14-07	United States-Peru Trade Promotion Agreement Implementation Act
110-140	12-19-07	Energy Independence and Security Act of 2007
110-141	12-19-07	To exclude from gross income payments from the Hokie Spirit Memorial Fund to the victims of the tragic event, loss of life and limb, at Virginia Polytechnic Institute & State University
110-142	12-20-07	Mortgage Forgiveness Debt Relief Act of 2007
110-161	12-26-07	Consolidated Appropriations Act, 2008
110-166	12-26-07	Tax Increase Prevention Act of 2007
110-172	12-29-07	Tax Technical Corrections Act of 2007

Public Law No.	Date	**Statutes Enacted by the 110th Congress – 2nd Session**
110-185	2-13-08	Economic Stimulus Act of 2008
110-190	2-28-08	Airport and Airway Extension Act of 2008
110-233	5-21-08	Genetic Information Nondiscrimination Act of 2008
110-234	5-22-08	Food, Conservation, and Energy Act of 2008
110-244	6-6-08	SAFETEA-LU Technical Corrections Act of 2008
110-245	6-17-08	Heroes Earnings Assistance and Relief Tax Act of 2008
110-246	5-22-08	Food, Conservation, and Energy Act of 2008
110-253	6-30-08	Federal Aviation Administration Extension Act of 2008
110-289	7-30-08	Housing Assistance Tax Act of 2008
110-317	8-29-08	Hubbard Act
110-318	9-15-08	To amend the Internal Revenue Code of 1986 to restore the Highway Trust Fund balance
110-328	9-30-08	SSI Extension for Elderly and Disabled Refugees Act
110-330	9-30-08	Federal Aviation Administration Extension Act of 2008, Part II
110-343	10-3-08	Emergency Economic Stabilization Act of 2008
110-351	10-7-08	Fostering Connections to Success and Increasing Adoptions Act of 2008
110-381	10-9-08	Michelle's Law
110-428	10-15-08	Inmate Tax Fraud Prevention Act of 2008
110-458	12-23-08	Worker, Retiree, and Employer Recovery Act of 2008
		Statutes Enacted by the 111th Congress – 1st Session
111-3	2-4-09	Children's Health Insurance Program Reauthorization Act of 2009
111-5	2-17-09	American Recovery and Reinvestment Act of 2009
111-12	3-30-09	Federal Aviation Administration Extension Act of 2009
111-46	8-7-09	To restore sums to the Highway Trust Fund and for other purposes
111-69	10-1-09	Fiscal Year 2010 Federal Aviation Administration Extension Act
111-92	11-6-09	Worker, Homeownership, and Business Assistance Act of 2009
111-116	12-16-09	Fiscal Year 2010 Federal Aviation Administration Extension Act, Part II
111-118	12-19-09	Making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes
111-124	12-28-09	To extend the Generalized System of Preferences and the Andean Trade Preferences Act, and for other purposes
		Statutes Enacted by the 111th Congress – 2nd Session
111-126	1-22-10	To accelerate the income tax benefits for charitable cash contributions for the relief of victims of the earthquake in Haiti
111-144	3-2-10	Temporary Extension Act of 2010
111-147	3-18-10	Hiring Incentives to Restore Employment Act
111-148	3-23-10	Patient Protection and Affordable Care Act
111-152	3-30-10	Health Care and Education Reconciliation Act of 2010
111-153	3-31-10	Federal Aviation Administration Extension Act of 2010
111-161	4-30-10	Airport and Airway Extension Act of 2010
111-171	5-23-10	Haiti Economic Lift Program Act of 2010
111-173	5-27-10	To clarify the health care provided by the Secretary of Veterans Affairs that constitutes minimum essential coverage
111-192	6-25-10	Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010
111-197	7-2-10	Airport and Airway Extension Act of 2010, Part II

Public Law No.	Date	**Statutes Enacted by the 111th Congress – 2nd Session (continued)**
111-198	7-2-10	Homebuyer Assistance and Improvement Act of 2010
111-203	7-21-10	Dodd-Frank Wall Street Reform and Consumer Protection Act
111-216	8-1-10	Airline Safety and Federal Aviation Administration Extension Act of 2010
111-226	8-10-10	FAA Air Transportation Modernization and Safety Improvement Act
111-237	8-16-10	Firearms Excise Tax Improvement Act of 2010
111-240	9-27-10	Small Business Jobs Act of 2010
111-249	9-30-10	Airport and Airway Extension Act of 2010, Part III
111-274	10-13-10	Plain Writing Act of 2010
111-291	12-8-10	Claims Resolution Act of 2010
111-309	12-15-10	Medicare and Medicaid Extenders Act of 2010
111-312	12-17-10	Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010
111-322	12-22-10	Continuing Appropriations and Surface Transportation Extensions Act, 2011
111-325	12-22-10	Regulated Investment Company Modernization Act of 2010
111-329	12-22-10	Airport and Airway Extension Act of 2010, Part IV
111-344	12-29-10	Omnibus Trade Act of 2010
111-347	1-2-11	James Zadroga 9/11 Health and Compensation Act of 2010