Summary of the Modified Chairman's Mark of the Family and Business Tax Cut Certainty Act of 2012

Modifications to Provisions in Chairman's Mark

Extend AMT relief to 2013. Currently, a taxpayer receives an exemption of $33,750 (individuals) and $45,000 (married filing jointly) under the AMT. Current law also does not allow nonrefundable personal credits against the AMT. The proposal increases the exemption amounts for 2012 to $50,600 (individuals) and $78,750 (married filing jointly). The modified proposal would also increase the exemption amounts for 2013 to $51,150 (individuals) and $79,850 (married filing jointly). The proposal also allows the nonrefundable personal credits against the AMT in both 2012 and 2013. The proposal is effective for taxable years beginning after December 31, 2011. *A two-year extension of this modified proposal is estimated to cost $132.2 billion over ten years.*

Removal of provision regarding the definition of gross estate for RIC stock owned by nonresident not a citizen of the US. Although stock issued by a domestic corporation generally is treated as property within the United States, stock of a RIC that was owned by a nonresident non-citizen is not deemed property within the United States in the proportion that, at the end of the quarter of the RIC's taxable year immediately before a decedent's date of death, the assets held by the RIC are debt obligations, deposits, or other property that would be treated as situated outside the United States if held directly by the estate (the "estate tax look-through rule for RIC stock"). The modified proposal removes the provision that would have permitted the look-through rule for RIC stock to apply to estates of decedents dying before January 1, 2014. *Removing this provision reduces the estimated cost of the bill by $10 million over ten years.*

Modify disclosure of prisoner return information to certain prison officials. The IRS is authorized to disclose certain limited return information about tax violations identified by the IRS, so that prison officials could punish and deter the prisoner's conduct through administrative sanctions. The provision expired on December 31, 2011. The modification expands the provision to permit disclosure of the actual tax return as well as tax return information, allow disclosure to prison officials directly, expand disclosure to include private contractors administering prisons, and provide disclosure to representatives of the prisoners. The proposal would make the provision permanent. *A permanent extension of this modified proposal is estimated to raise $12 million over ten years.*

Removal of provision regarding the expensing of "brownfields" environmental remediation costs. The provision would have extended for two years the provision that allows for the expensing of costs associated with cleaning up hazardous "brownfield" sites. The modified proposal does not extend the provisions. *Removing this provision reduces the estimated cost of the bill by $363 million over ten years.*

Modify increase in the maximum amount and phase-out threshold under section 179. Under current law, a taxpayer with a sufficiently small amount of annual investment may elect to deduct the cost of certain property placed in service for the year rather than depreciate those costs over time. The 2003 tax cuts temporarily increased the maximum dollar amount that may be deducted from $25,000 to $100,000. The tax cuts also increased the phase-out threshold from $200,000 to $400,000. The maximum amount and phase-out threshold have been further modified and extended several times on a temporary basis, increasing up to a high of $500,000 and $2 million respectively for taxable years beginning in 2010 and 2011, and then to $125,000 and $500,000 respectively for taxable years beginning in 2012, before reverting to the permanent amounts of $25,000 and $200,000 respectively for taxable years beginning in 2013 and thereafter. The modified proposal would increase the maximum amount and phase-out threshold in 2012 and 2013 to the levels in effect in 2010 and 2011 ($500,000 and $2 million respectively). Within those thresholds, the modified proposal would also allow a taxpayer to expense up to $250,000 of the cost of qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property. This proposal expires at the end of 2013. *A two-year extension of this modified proposal is estimated to cost $2.4 billion over ten years.*

Additional Provisions in Modified Mark

Extension and Modification of Incentives for Renewable Electricity Property Wind Production Tax Credit and Modification of Other Renewable Energy Credits. Under current law, taxpayers can claim a 2.2 cent per kilowatt hour tax credit for wind electricity produced for a 10-year period from a wind facility placed-in-service by the end of 2012 (the wind production tax credit). The bill extends through 2013 the production tax credit for wind. The provision also modifies section 45 to allow renewable energy facilities that begin construction before the end of 2013 to claim the 10-year credit, and amends section 45 to clarify that commonly recycled paper is excluded from qualifying from the production tax credit. *This proposal is estimated to have a net of cost $12.1 billion over ten years.*

Investment Tax Credit in Lieu of Production Tax Credit. Under current law, facilities that produce electricity from solar facilities are eligible to take a thirty percent (30%) investment tax credit in the year that the facility is placed-in-service. Facilities that produce electricity from wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation, hydropower, landfill gas, waste-to-energy, and marine renewable facilities are eligible for a production tax credit for electricity produced over a ten-year period. The investment tax credit is better for small and offshore wind facilities. The bill would allow facilities qualifying for the production tax credit to elect to take the investment tax credit in lieu of the production tax credit for facilities that begin construction by the end of 2013. *This proposal is estimated to cost $135 million over ten years.*

Seven-year recovery period for motorsports entertainment complexes. The bill extends for two years, through 2013, the special seven year cost recovery period for property used for land improvement and support facilities at motorsports entertainment complexes. *A two-year extension of this proposal is estimated to cost $78 million over ten years.*

Modification of tax treatment of certain payments to controlling exempt organizations. In general, interest, rent, royalties, and annuities paid to a tax–exempt organization from a controlled entity are treated as unrelated business income of the tax-exempt organization. The Pension Protection Act (PPA) provided that if a payment to a tax-exempt organization by a controlled entity is less than fair market value, then the payment is excludable from the tax-exempt organization's unrelated business income. The bill extends the provision two years to the end of 2013. *A two-year extension of this proposal is estimated to cost $40 million over ten years.*

American Samoa economic development credit. Certain domestic corporations operating in American Samoa are eligible for a possessions tax credit, which offsets their U.S. tax liability on income earned in American Samoa from active business operations, sales of assets used in a business, or certain investments in American Samoa. Further, the credit is held to an economic activity-based limit, measuring the credit against wages, depreciation, and American Samoa income taxes. The bill extends the provision two years to the end of 2013 and modifies the credit to make it available to all qualifying manufacturing businesses operating in American Samoa. *A two-year extension of this proposal is estimated to cost $124 million over ten years.*

Errata to Descriptions in Modified Mark

Description of extension of cellulosic biofuels producer tax credit. The Chairman's Mark inadvertently omitted the effective date for the technical drafting correction regarding carryovers. The technical correction is effective as if originally included in section 15321(b) of the Farm Bill of 2008.

Description of extension of cellulosic biofuels bonus depreciation. The modification clarifies that the proposal is effective for property placed in service on or after the date of enactment.

Description of mine rescue team training credit. The Chairman's Mark incorrectly listed the end date for the mine rescue team training credit. The bill extends the credit for two years, through taxable years beginning on or before December 31, 2013.

Description of election to expense advanced mine safety equipment. The Chairman's Mark incorrectly listed the end placed in service date relating to the expensing of advanced mine safety equipment. The bill extends for two years the present-law placed in service date to December 31, 2013.

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