ECONOMIC AND COMMUNITY DEVELOPMENT

Senate Finance Committee Staff Tax Reform Options for Discussion

May 15, 2013

This document is the sixth in a series of papers compiling tax reform options that Finance Committee members may wish to consider as they work towards reforming our nation's tax system. This compilation is a joint product of the majority and minority staffs of the Finance Committee with input from Committee members' staffs. The options described below represent a non-exhaustive list of prominent tax reform options suggested by witnesses at the Committee's 30 hearings on tax reform to date, bipartisan commissions, tax policy experts, and members of Congress. For the sake of brevity, the list does not include options that retain current law. The options listed are not necessarily endorsed by either the Chairman or Ranking Member.

Members of the Committee have different views about how much revenue the tax system should raise and how tax burdens should be distributed. In particular, Committee members differ on the question of whether any revenues raised by tax reform should be used to lower tax rates, reduce deficits, or some combination of the two. In an effort to facilitate discussion, this document sets this question aside.

CURRENT CHALLENGES AND POTENTIAL GOALS FOR REFORM

The federal tax code includes a number of tax expenditures related to economic and community development. Some tax expenditures help state, local and tribal governments build infrastructure such as highways, airports, schools, and hospitals. Other tax expenditures are for homeownership or affordable rental housing for low-income households. Still others are for businesses to invest in impoverished and difficult-to-develop areas.

Tax reform provides an opportunity to simplify tax expenditures for economic and community development and, if members of Congress decide to preserve these provisions, make them more effective. Following are some potential broad principles for reform in this area:

- Simplify the law in order to reduce the cost to businesses and individuals of complying with the tax code
- Carefully consider whether and how to address any positive or negative externalities
- If policy makers choose to include incentives in a reformed tax code, make such tax expenditures more equitable and efficient
- Carefully consider how to treat different parts of the country and industries equitably

Some specific concerns about the taxation of housing, state, local and tribal finance, and community development include the following:

- **Distortion of investment decisions:** Some argue that tax expenditures, for example for housing, distort investment choices, which may hamper economic growth, and believe that the tax code should instead focus on equitably and efficiently collecting revenues. To the extent state and local governments and the private sector already provide sufficient capital for a good or service, federal tax incentives could be unnecessary and lead to over-provision of the good or service. Others argue that that tax incentives promote efficiency where they account for externalities. For example, they argue that homeownership has positive effects on neighborhood investment, and therefore tax incentives are appropriate. However, externalities may be hard to measure precisely.

- **Low bang-for-the-buck for tax incentives:** Some argue that tax incentives in this area could achieve more at a lower cost. For example, tax-exempt bonds are intended to reduce the borrowing costs to state and local governments by providing a tax exemption for investors on the interest they receive. However, according to the Congressional Budget Office (CBO), about 20% of the tax subsidy does not accrue to the state and local government by lowering their borrowing costs.

- **Uncertainty created by temporary extensions:** Some are concerned that the temporary nature of expiring tax expenditures creates uncertainty for taxpayers, makes it difficult for businesses to plan and may diminish their effectiveness. For example, the New Markets Tax Credit has been extended 5 times since it was created in 2000. At the same time, some argue that certain tax expenditures should expire to ensure that the tax code adapts to changing circumstances.

- **Fairness:** Some are concerned that tax expenditures in this area, for example for homeownership, are inequitable because higher-income households receive larger tax incentives than lower-income households. For example, more than two-thirds of taxpayers do not itemize and therefore do not benefit from the mortgage interest deduction. These non-itemizers are generally middle-income and low-income. However, others note that itemizers tend to bear a larger portion of the tax burden and view the standard deduction as a simplification to avoid the need to itemize.

- **Effect on household debt accumulation:** Over the last 40 years, inflation-adjusted, per-capita mortgage debt has more than doubled according to the Federal Reserve. Some are concerned that tax expenditures for homeownership have contributed to this increase, and that households are less financially stable as a result.

- **Duplication with spending programs:** Some argue that the tax system should not subsidize, for example, community development projects because direct spending programs can be more narrowly targeted and lead to more accountability and transparency. However, others argue that tax expenditures can be more effective or efficient than direct spending programs in certain circumstances. At a minimum, many believe that tax benefits and direct spending benefits, such as the Low-Income House Tax Credit and Section 8 housing assistance, should be more coordinated.

- **Federalism:** Some believe that it is not an appropriate role for the federal government to assist state and local governments by, for example, helping to pay for local infrastructure or services. Others argue that such assistance has spillover effects beyond the local community, and therefore the federal government should play a role.

- **State revenue needs:** Some states have found it difficult to maintain a given level of services during economic downturns because, unlike the federal government, almost all states are required by state law to balance their budgets. As a result, they cannot meet their operating budgets by using borrowed funds. Other states have not found it difficult to maintain services during economic downturns because of spending restraint or other policy changes. Some states are also concerned about their ability to collect the level of revenues they would like going forward, as a result of changes in the economy or federal restrictions on what taxes they can impose. Some believe the federal government should impose fewer restrictions on what states may tax and do more to facilitate states collecting taxes they are owed. Others, however, are concerned that doing so might result in states overreaching their taxing jurisdiction, expanding the scope of their taxes or hindering economic growth.

- **Complexity and uncertainty created by multiple states' tax rules:** Each state and locality generally has the authority to determine the level of and type of taxes within its jurisdiction. This can create a large amount of complexity and uncertainty for businesses and individuals who are subject to tax in multiple states and localities. For example, a business operating in all 50 states may have to contend with over 9,600 different sales taxes and income tax withholding requirements for their employees.

Given the advent and expansion of electronic commerce and the digital goods and service industries, there is greater uncertainty as to what constitutes a transaction, and whether and how it should be taxed. Some argue coordination and uniformity of state rules could provide taxpayers with certainty as to whom and what is subject to a tax. Others are concerned about whether this is an appropriate role for the federal government.

REFORM OPTIONS

I. HOUSING

The federal tax code includes three major tax expenditures for homeowners: the home mortgage interest deduction, the exclusion of gain on the sale of a home, and the deduction for real property taxes (discussed in the next section).

The home mortgage interest deduction is an itemized deduction for taxpayers paying mortgage interest on owner-occupied housing, for up to two residences. Taxpayers can claim it for interest on mortgages totaling up to $1 million and also on home equity loans up to $100,000, regardless of the use of the funds. Under the individual alternative minimum tax (AMT), a taxpayer may lose part or all of the interest deduction on home equity loans. A temporary provision, scheduled to expire at the end of 2013, also allows some taxpayers to claim the deduction for mortgage insurance premiums.

The exclusion for gain on the sale of a home allows taxpayers to exclude up to $250,000 ($500,000 for married couples filing jointly) in gains from the sale of their principal residence. To qualify for the exclusion, the seller must have both owned and lived in the house for at least two of the previous five years. Exceptions are provided under certain circumstances, such as moving for employment purposes or living in a nursing home.

The federal tax code also provides for a tax credit and tax-exempt bond financing for affordable rental housing. The low-income housing tax credit (LIHTC) is administered by state housing finance authorities through a competitive application process open to developers of rental housing for low-income households. In addition, a limited number of tax-exempt bonds are available in each state to finance affordable rental housing.

1. **Gradually repeal the mortgage interest deduction** (Testimony of Dr. Karl Case before the Finance Committee, October 6, 2011; Congressional Budget Office, "Reducing the Deficit: Spending and Revenue Options," 2011; similar to U.K. law)

    a. Could be phased out by, for example:
        i. Reducing the maximum mortgage eligible for the deduction by, for example, $100,000 for each of 10 years (estimated in 2011 to raise $215 billion over 10 years)
        ii. Limit the value of the deduction to, for example, 25% per dollar deducted, with the percent declining over time

2. **Limit the mortgage interest deduction**

    a. Reduce the value of the mortgage interest deduction for higher-cost homes
        i. Reduce the amount of qualified debt from $1 million to, for example, $500,000 (The National Commission on Fiscal Responsibility and Reform, "The Moment of Truth," 2010; Congressional Budget Office, "Budget Options," 2007, estimated in 2007 to raise $88 billion over 10 years if limited to $400,000)
        ii. Limit eligible interest on mortgages to, for example, 125% of the average regional price of housing (Testimony of Sen. John Breaux before the Finance Committee, October 6, 2011; President's Advisory Panel on Tax Reform, "Final Report," 2005)
    b. Reduce the mortgage interest deduction in various ways
        i. Limit the value of the deduction to, for example, 28% per dollar deducted (FY14 Administration Budget Proposal)
        ii. Repeal deduction for interest paid on home equity indebtedness (President's Advisory Panel on Tax Reform, "Final Report," 2005; Joint Committee on Taxation, "Options To Improve Tax Compliance And Reform Tax Expenditures," 2005, estimated in 2005 to raise $23 billion over 10 years)
        iii. Deny deduction for second homes, boats, and campers (President's Advisory Panel on Tax Reform, "Final Report," 2005; Rivlin-Domenici, "Restoring America's Future," 2010; Viard, "Replacing the Home Mortgage Interest Deduction," 2013)

3. **Convert the mortgage interest deduction to an above-the-line deduction** (H.R.3608 (110th Congress), To … allow the deduction for interest on acquisition indebtedness on principal residences to all individuals…, sponsored by Rep. Barrow)

4. **Convert the mortgage interest deduction to a credit** (President's Advisory Panel on Tax Reform, "Final Report," 2005; Rivlin-Domenici, "Restoring America's Future," 2010; H.R.1213 (113th Congress), Common Sense Housing Investment Act of 2013, sponsored by Rep. Ellison; Viard, "Replacing the Home Mortgage Interest Deduction," 2013)

    a. Credit could be a percentage of mortgage interest or could be a flat dollar amount
    b. Credit could be refundable or nonrefundable
    c. Could gradually phase-out current itemized deduction and transition to the credit over a period of years
    d. Credit could be limited to first-time homeowners

5. **Phase out exclusion for capital gains on sale of principal residence** (Congressional Research Service, "The Exclusion of Capital Gains for Owner-Occupied Housing," 2007)

    a. Phase out exclusion over, for example, 10 years
    b. Allow taxpayer to spread gain over, for example, 5 years

6. **Make permanent the deduction for mortgage insurance premium payments** (S.688 (113th Congress), A bill to permanently extend the private mortgage insurance tax deduction, sponsored by Sens. Stabenow and Crapo)

7. **Extend exclusion from income for cancellation of certain home mortgage debt**

    a. Could do so permanently (Testimony of Gary Thomas before the Committee on Ways and Means, April 25, 2013), or
    b. Temporarily, for example, through 2016 (FY14 Administration Budget Proposal; S.2250 (112th Congress), The Mortgage Forgiveness Tax Relief Act, sponsored by Sens. Stabenow, Brown, Cardin, Isakson, Menendez, and Nelson; estimated in 2013 to cost $6 billion over 10 years)

8. **Repeal the Low-Income Housing Tax Credit (LIHTC)** (President's Economic Recovery Advisory Board, "The Report on Tax Reform Options," 2010)

9. **Replace the LIHTC with an equivalent reduction in tax on rental income** (Testimony of Mark A. Calabria, before Committee on Ways and Means, April 25, 2013)

10. **Reform or expand the LIHTC** (FY14 Administration Budget Proposal; S.1989 (112th Congress), A bill to… make permanent the minimum low-income housing tax credit rate …, sponsored by Sens. Cantwell, Bingaman, Brown, Cardin, Crapo, Kerry, Menendez, Nelson, Schumer, Snowe, and Stabenow; H.R.2765 (105th Congress), To… specify certain circumstances… for purposes of denying eligibility for the low-income housing tax credit, sponsored by Rep. Hilliard; Roden, "Building a Better Low-Income Housing Tax Credit," Tax Notes, 2010; Joint Center for Housing Studies of Harvard University, "The Disruption of the Low-Income Housing Tax Credit Program," 2009)

    a. For example, allow states to use amounts allocated for private activity bonds for LIHTCs instead, adjust and freeze the discount rate for the LIHTC, prohibit awarding of credits to nonprofits controlled by for-profit entities, limit the number of LIHTC units per project, or eliminate the provisions in current law allowing for enhanced credits for projects in certain geographic areas

11. **Create a non-refundable tax credit for low-income renters** (Center on Budget and Policy Priorities, "Renters' Tax Credit Would Promote Equity and Advance Balanced Housing Policy," 2012)

    a. Credit could go to property owners that reduced rents for low-income renters generally to no more than 30% of their income
    b. Could cap amount of federal credits for allocation by states at, for example, $5 billion
    c. Alternatively, could replace the LIHTC with a voucher program for low-income renters (Weisbach, "Tax Expenditures, Principal-Agent Problems, and Redundancy," Washington University Law Review, 2006)

II. STATE AND LOCAL FINANCING

Under current law, taxpayers who itemize can deduct the amount they pay in state and local income and property taxes. A temporary provision, scheduled to expire at the end of 2013, allows taxpayers to choose to deduct their state and local sales taxes instead of their state and local income taxes. There is no limit on the amount of state and local real property taxes that can be deducted or from which properties, so owners of multiple homes can deduct the taxes assessed on all of them. However, under the individual AMT, a taxpayer may lose the deduction for state and local taxes.

In addition, taxpayers who hold bonds issued by state and local governments for governmental purposes ("governmental bonds") do not have to pay tax on the interest they receive on the bond. The same is true for certain bonds issued by the private sector ("private activity bonds"). Another tax-preferred bond is the tax credit bond, which state and local governments and certain tax-exempt organizations can issue for specific projects such as school construction, renewable electricity generation, and energy efficiency programs. Issuers of tax credit bonds do not pay interest on the bond. Instead, the investor holding the bond as of a certain date receives a quarterly tax credit. In 2009, Congress created a new type of tax subsidy for bonds to finance governmental capital projects, the Build America Bond. This provision provided a direct interest payment subsidy to state and local government issuers for bonds issued, instead of an exclusion or tax credit for the investors. Authority to issue Build America Bonds expired on December 31, 2010. Under the AMT, taxpayers are subject to tax on interest on specified private activity bonds.

1. **Limit or eliminate the deduction for state and local taxes**

    a. Repeal the deduction (Congressional Budget Office, "Reducing the Deficit: Spending and Revenue Options," 2011; President's Advisory Panel on Tax Reform, "Final Report," 2005; estimated in 2011 to raise $862 billion over 10 years)
    b. Limit the value of the deduction to, for example, 28% of each dollar deducted (FY14 Administration Budget Proposal)
    c. Cap the deduction at, for example, 2% of adjusted gross income (Testimony of Frank Sammartino before the Finance Committee, April 25, 2012; Congressional Budget Office, "Reducing the Deficit: Spending and Revenue Options," 2011; Feldstein, "It's Time to Cap Tax Deductions," 2013; estimated in 2011 to raise $629 billion over 10 years)
    d. Allow non-itemizers to claim the deduction for state and local real property taxes or all state and local taxes (S.3125 (110th Congress), Energy Independence and Tax Relief Act of 2008, sponsored by Sen. Baucus; S.22 (112th Congress), Homeowner Tax Fairness Act of 2011, sponsored by Sen. Gillibrand)

2. **Permanently extend the deduction for state and local sales tax** (S.41 (113th Congress), A bill to provide a permanent deduction for state and local sales taxes, sponsored by Sens. Cantwell, Enzi, Nelson, and Johnson)

3. **Repeal the tax exemption on all governmental and private activity bonds** (The National Commission on Fiscal Responsibility and Reform, "The Moment of Truth," 2010)

4. **Modify existing tax-exempt bonds**

    a. Repeal the governmental ownership requirement for bonds used to finance airports, docks and wharves, and mass commuting facilities (FY14 Administration Budget Proposal; estimated in 2013 to cost $4 billion over 10 years)
    b. Eliminate private payment test for stadium bonds (Joint Committee on Taxation, "Options To Improve Tax Compliance And Reform Tax Expenditures," 2005; estimated in 2005 to raise $1 billion over 10 years)

5. **Create a new, permanent direct subsidy for bonds for financing governmental capital projects** (FY14 Administration Budget Proposal; Testimony of Governor Ed Rendell before the Finance Committee, May 17, 2011; estimated in 2013 to raise $4 billion over 10 years)

    a. Could expand to include projects and programs eligible for private activity bond financing and subject to state bond volume caps (FY14 Administration Proposal)

6. **Replace the exclusion for interest on state and local bonds with a direct subsidy for the issuer or a non-refundable tax credit for the investor** (S.727 (112th Congress), The Bipartisan Tax Fairness and Simplification Act, sponsored by Sen. Wyden; Congressional Budget Office, "Reducing the Deficit: Spending and Revenue Options," 2011; estimated in 2011 to raise $143 billion over 10 years)

    a. State and local issuers would receive a direct federal subsidy equal to, for example, 25% of the interest paid on the bonds
        i. Alternatively, investor would receive non-refundable credit of that amount
    b. For qualified private activity bonds, states and localities could pass the subsidy payment on to the private sector borrower
    c. Could phase out exclusion for newly-issued bonds over, for example, 3 years

III. TRIBAL FINANCING

Indian tribes and wholly-owned tribal corporations chartered under Federal law are not subject to Federal income taxes. In contrast, a corporation owned by a tribe or tribal members and organized under State law is subject to Federal income tax on income earned from commercial activities conducted on or off the tribe's reservation. Generally, tribal members are subject to

Federal income taxes except for certain income. For example, income earned from the exercise of certain fishing rights is excluded from income.

Tribes are often depressed economic communities with high unemployment. From 2007 to 2010, the American Indian unemployment rate increased from 7.5% to 15.2%. The unemployment rate for Alaska Natives was even higher—21.3% in 2010. The tax code contains several provisions to boost economic activity within and on tribal lands. Tribes are also allowed to issue tax-exempt bonds; however, such bonds are limited to "essential government functions", a requirement that does not apply to states.

1. **Modify tribal tax-exempt bonds**
    a. Modify tax-exempt bonds for tribal governments (FY14 Administration Budget Proposal; estimated in 2013 to cost less than $1 billion over 10 years; Joint Committee on Taxation, JCX-19-05R, 2005)
        i. Repeal the essential governmental function requirement so that eligibility standards are the same for tribal governments and state and local governments (Testimony of Dr. Lindsay Robertson before the Finance Committee, May 15, 2012; Department of the Treasury, "Report and Recommendations to Congress Regarding Tribal Economic Development Bond Provision under Section 7871 of the Internal Revenue Code," 2011)
        ii. Conform private activity bond standard to those of state and local governments
            1. Could restrict project location to reservations
            2. Could prohibit issue or use of bonds for gambling facilities

2. **Exempt certain tribal activities from taxation**

    a. Create a ten-year, tax-free zone for selected areas of Indian country in which economic activity would not be subject to any federal, state, or local income, sales, or excise taxes (Testimony of President Robert Odawi Porter before the Finance Committee, May 15, 2012; Lummi Indian Business Council comments to Committee on Ways and Means working group on Charitable/Exempt organizations, submitted April 15, 2013)

3. **Clarify the general welfare exclusion doctrine for certain benefits provided by tribes to members** (Various Tribal comments to Committee on Ways and Means working group on Charitable/Exempt organizations, submitted April 15, 2013)

a. Codify the income exclusion for government benefits provided by Indian tribes under the general welfare exclusion doctrine
b. Adopt a moratorium on audits relating to the general welfare exclusion doctrine while implementing Notice 2012-75

4. Make permanent or expand temporary provisions

a. Make permanent the Indian employment credit and accelerated depreciation on Indian reservations (Choctaw Nation of Oklahoma comments to Committee on Ways and Means working group on Charitable/Exempt organizations, submitted April 15, 2013)
b. Expand the Indian employment tax credit to more closely resemble the Work Opportunity Tax Credit (Testimony of Donald Laverdure before the Finance Committee, July 22, 2008)

5. Conform the definition of Indian and reservation for tax purposes (Testimony of Director D'Shane Barnett before the House Appropriations Subcommittee on the Interior, Environment, and Related Agencies, March 19, 2013)

6. Modify the adoption tax credit to allow Tribal Governments to determine whether a child has special needs (FY14 Administration Budget Proposal; estimated in 2013 to cost less than $1 billion over 10 years)

IV. COMMUNITY DEVELOPMENT

The federal tax code provides incentives for investment in areas of the country with high levels of poverty and economic distress. The New Markets Tax Credit is administered by the Community Development Financial Institutions Fund of the Department of the Treasury, which competitively allocates a Congressionally-established amount of tax credit authority to community development entities. The program provides investors in such entities with a tax credit over seven years totaling 39% of the investment. To qualify, community development entities must invest in qualifying low-income census tracts. The American Taxpayer Relief Act of 2012 provided $7 billion in allocation authority for the program over two years. Under current law, the New Markets Tax Credit can be used to offset regular federal income tax liability but cannot be used to offset AMT liability.

Congress has also designated certain geographic areas as Empowerment Zones, Enterprise Communities and Renewal Communities. These areas were eligible for federal grants and tax incentives. Tax provisions for these geographic areas included employment tax credits, deductions, tax-exempt financing and other tax incentives. The tax benefits for Empowerment Zones expire at the end of 2013 while the other zone incentives have already expired.

To encourage the preservation of historic buildings, current law provides a tax credit equal to 10% of the cost of rehabilitating structures built before 1936 and 20% for structures certified by the National Park Service as historic structures.

Several tax benefits are automatically available to Presidentially-declared disasters areas, including granting additional time to file returns and pay taxes and allowing both individuals and businesses to receive a faster refund by claiming losses related to the disaster on the tax return for the previous year, usually by filing an amended return. Since 2001, Congress has passed legislation on four separate occasions to expand these tax benefits in response to specific Presidentially-declared disasters. These bills have provided various forms of additional tax relief for a limited period of time to individuals and businesses located in the disaster area in order to help the area recover. Disasters have included terrorist attacks, hurricanes, floods, and other natural disasters.

1. **Repeal the New Markets Tax Credit** (Sen. Coburn, "Back in Black," 2011)

2. **Extend and modify the New Markets Tax Credit** (FY14 Administration Budget Proposal; S.996 (112th Congress), New Markets Extension Act of 2011, sponsored by Sens. Rockefeller and Snowe; estimated in 2013 to cost $7 billion over 10 years)

    a. Permanently extend the New Markets Tax Credit
    b. Index the credit for inflation and allow it to offset AMT liability
    c. Prohibit any project benefitting from the New Markets Tax Credit from also receiving any other federal tax benefit, federal grant, or federal loan (Coburn Amendment #14 to Chairman's Mark of the Family and Business Tax Cut Certainty Act of 2012, S.3521 (112th Congress))
    d. Prohibit New Markets Tax Credits from being claimed by entities that received TARP funding (Coburn Amendment #15 to Chairman's Mark of the Family and Business Tax Cut Certainty Act of 2012, S.3521 (112th Congress))
    e. Prohibit New Markets Tax Credits from being used to support certain projects, such as fast food restaurants (Coburn Amendment #16 to Chairman's Mark of the Family and Business Tax Cut Certainty Act of 2012, S.3521 (112th Congress))

3. **Modify or eliminate the Historic Preservation Tax Credit**

    a. Repeal the credit (Sen. Coburn, "Back in Black," 2011)
    b. Reform the credit by, for example, increasing the credit to 30% for certain smaller projects and adding an energy-efficient supplement to the credit (S.2074 (112th Congress), Creating American Prosperity through Preservation Act of 2012, sponsored by Sens. Cardin, Schumer, Stabenow)

4. **Create a permanent tax relief package for individuals and businesses in Presidentially-declared national disaster areas** (S.3335 (110th Congress), Jobs, Energy, Families, and Disaster Relief Act of 2008, sponsored by Sens. Baucus and Reid; S.1456 (112th Congress), The Disaster Tax Relief Act of 2011, sponsored by Sens. Kerry and Brown)

    a. Tax relief for individuals could include temporary suspension of limitations of charitable contributions, extended replacement period of property lost, exclusion of disaster-related cancellation of indebtedness, and waiver of penalties on distributions from retirement accounts
    b. Tax relief for businesses could include employee retention credits, extended net operating losses, enhanced expensing, and eligibility for the New Markets Tax Credit

V. STATE AND LOCAL TAX UNIFORMITY

States and localities generally may determine the appropriate level and form of taxes they impose, although the Constitution includes restrictions on who and what states and localities can tax, including the Due Process Clause of the 14th Amendment and the Commerce Clause. The Due Process Clause requires a minimum connection between a state and the person, property, or transaction it seeks to tax. The Commerce Clause gives Congress the power to regulate commerce among the states, including the authority to allow states to impose taxes or require the states to conform or limit their taxes when those laws affect interstate commerce. Under the "dormant Commerce Clause" legal doctrine, states have generally been prohibited from enacting laws that improperly burden or discriminate against interstate commerce.

Currently, the federal government has limited involvement in state taxation, and there is little coordination and uniformity between state tax rules on who and what is subject to a tax. Changes that coordinate rules and promote uniformity across state boundaries could help reduce double taxation, tax evasion, and compliance burdens, while in some cases allowing states to better balance their budgets.

1. Exercise Federal authority to establish uniform rules among the states

a. Establish uniform, national rules for how digital goods and services are taxed (i.e., sourcing rules) (Amendment 764 to S.743 (113th Congress), the Digital Goods and Services Tax Fairness Act, as introduced by Sens. Thune and Wyden)
b. Create uniform, national rules for when a state can tax the income of, or require withholding on, an employee who is temporarily working in that state (S.3485 (112th Congress), Mobile Workforce State Income Tax Simplification Act, sponsored by Sen. Brown; Testimony of Walter Hellerstein before the Finance Committee, April 25, 2012)
c. Create uniform, national rules for when a state may tax compensation earned by nonresident telecommuters (S.1811 (112th Congress), Telecommuter Tax Fairness Act of 2011, sponsored by Sens. Lieberman and Blumenthal)

2. Authorize states to require out-of-state vendors to collect sales tax

a. Predicate such authority on the state becoming a member of the Streamlined Sales and Use Tax Agreement, which would require the state to reduce compliance burdens for out-of-state sellers through, for example, a centralized one-stop, multistate registration system; a single audit; uniform definitions of what can be taxed; and reimbursement of expenses incurred by a seller in collecting and remitting taxes (S.1452 (112th Congress) Main Street Fairness Act, sponsored by Sen. Durbin; Testimony of Walter Hellerstein before the Finance Committee, April 25, 2012)
b. Alternatively, predicate such authority on the state either becoming a member of the Streamlined Sales and Use Tax Agreement or adopting minimum simplification requirements, such as one filing location per state and a release from liability for reliance on state-provided compliance software (S.743 (113th Congress), the Marketplace Fairness Act of 2013, sponsored by Sens. Enzi, Durbin, and Alexander; Testimony of Sanford Zinman before the Finance Committee, April 25, 2012)

c. Require states to opt-in before resident businesses are subject to collection, with residence of business defined based on the residence of its owners and the share of domestic payroll in that state (Amendment 757 to S.743 (113th Congress), sponsored by Sen. Shaheen)

d. Modify the Marketplace Fairness Act by striking the preemption provision, sunsetting the legislation after 5 years, instituting 3 year statute-of-limitations on state audits of remote sellers, requesting a GAO study of ability of remote sellers to comply with the legislation, carving-out digital goods, providing vendor compensation, and increasing the small seller exemption and indexing it for inflation (Amendment 754 to S.743 (113th Congress), sponsored by Sen. Hatch)

e. Authorizing states to require out-of-state vendors to collect sales tax assumes destination-based sourcing (generally based on the location of the consumer), but state and local taxes could be collected on an origin basis (based on the location of the remote seller) (Cato Institute, "The Internet Tax Solution, Tax Competition, Not Tax Collusion," 2003)

3. Reform prohibitions on certain state or local taxes

a. Permanently extend the moratorium on Internet access taxes and the ban on multiple and discriminatory taxes on electronic commerce (S.31 (113th Congress), Permanent Internet Tax Freedom Act of 2013, sponsored by Sen. Ayotte)

b. Place a moratorium of, for example, 5 years on new state and local taxes on wireless services (such as taxes on cell phone usage) that are not imposed on other products or services (S.543 (112th Congress), Wireless Tax Fairness Act of 2011, sponsored by Sen. Wyden)

c. Expand the federally-created safe-harbor governing how much activity a business must engage in within a state to become subject to that state's business activity taxes (such as taxes on corporate profits) (H.R.1439 (112th Congress), Business Activity Tax Simplification Act, sponsored by Reps. Goodlatte and Scott)

d. Prohibit discriminatory state taxes on motor vehicle rentals (H.R.2469 (112th Congress), End Discriminatory State Taxes for Automobile Renters Act of 2011, sponsored by Rep. Cohen)

e. Prohibit state or local governments from imposing occupancy taxes on booking fees of online travel companies (Tax Foundation, "Cities Pursue Discriminatory Taxation of Online Travel Services," 2010)