

**Congress of the United States**  
JOINT COMMITTEE ON TAXATION  
Washington, DC 20515-6453

**MEMORANDUM**

APR 27 2016

**TO:** Todd Metcalf and Adam Carasso

**FROM:** Thomas A. Barthold



**SUBJECT:** Revenue Estimate

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This memorandum is in response to your request for a revenue estimate of your proposal to require financial derivatives and certain underlying investments to be marked to market.

Under present law, the tax rules apply differently depending on the form of the derivative, the type of taxpayer entering into it, the purpose of the transaction, and other factors.

Under your proposal, all taxpayers would be required to mark their derivatives to market, recognizing gain or loss as if the derivatives were sold for fair market value on the last business day of the taxpayers' taxable year. Gain and loss from the mark to market is treated as ordinary income or loss. The proposal does not require stocks or bonds to be marked to market. However, if a taxpayer has an investment hedging unit consisting of a derivative and a non-derivative, in which the derivative's value is determined by the non-derivative position, then both the derivative and the non-derivative positions are required to be marked to market. Upon entering into such an investment hedging unit, the taxpayer must recognize any built-in gain (and defer any built-in loss).

A derivative is any contract the value of which, or any payment or other transfer with respect to which, is (directly or indirectly) determined by reference to one or more of the following: (1) any share of stock in a corporation, (2) any partnership or beneficial ownership interest in a partnership or trust, (3) any evidence of indebtedness, (4) any real property (other than real property for which an exclusion is available), (5) any commodity that is actively traded within the meaning of section 1092(d)(1), (6) any currency, (7) any rate, price, amount, index, formula, or algorithm, and (8) any other item prescribed by the Secretary of the Treasury. The term derivative does not include an item described in (1) through (8).

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For estimating purposes your proposal is assumed to be enacted on July 1, 2016, and assumed to be effective 90 days after the date of enactment with respect to property acquired and positions established after the date of enactment.

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Fiscal Years (Millions of Dollars)												
<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2016-21</u>	<u>2016-26</u>
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**NOTE:** Details do not add to totals due to rounding.