Washington Council Ernst & Young

Energy Alert

22 February 2012

President's Framework for Business Tax Reform
Energy Highlights

The U.S. Department of the Treasury today released the President's "Framework for Business Tax Reform," which would "eliminate dozens of tax loopholes and subsidies" and fundamentally reform the business tax base to reduce the corporate tax rate from 35 percent to 28 percent. The Framework would also cut the corporate rate on manufacturing income to 25 percent by reforming the domestic production activities deduction. A copy of the Framework is attached.

The President's Framework starts from a presumption that all tax expenditures for specific industries would be eliminated, with only a few exceptions "that are critical to broader growth or fairness." Key examples of provisions that would be repealed or reformed include:

- ***Oil and gas tax preferences***. The Framework would repeal all tax preferences for fossil fuels, including expensing of intangible drilling costs and percentage depletion for oil and natural gas wells.
- ***"Last in first out" accounting***. Under the "last-in, first-out" (LIFO) method of accounting for inventories, the cost of items of inventory that are sold is equal to the cost of the items that were most recently purchased or produced. The Framework would end LIFO.
- ***Tax "carried interests" as ordinary income***.
- ***Move from accelerated depreciation to economic depreciation schedules***.
- ***Reduce the bias toward debt financing***. "Reduce the deductibility of interest for corporations."
- ***Establish greater parity between large corporations and large pass-through entities***. The Framework makes no specific recommendation on how this would be achieved, but notes that a variety of ways have been proposed, "including ones discussed in the 2005 report of President Bush's advisory Panel on Tax Reform" and in reform options developed by President Obama's Economic Recovery Advisory Board.

President's Framework Retains Incentives for Clean Energy.

While tax expenditures relating to the production of fossil fuels would be eliminated, the President's Framework retains "key incentives to encourage investment in clean energy." For example, the Framework would make permanent the "tax credit for the production of renewable electricity, in order to provide a strong, consistent incentive to encourage investments in renewable energy technologies like wind and solar." In addition, the President's Framework "would make the permanent production tax credit refundable." It is unclear from the description, however, whether the Framework's proposals for permanent extension and refundability would apply to both the section 45 production tax credit and the section 48 investment tax credit.

If you have questions, or need additional information, contact Washington Council Ernst & Young at (202) 293-7474.