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TAX POLICY

Factors for Evaluating Expiring Tax Provisions

Statement of James R. White, Director
Strategic Issues

GAO
Accountability * Integrity * Reliability

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Highlights

Highlights of GAO-12-760T, a testimony before the Subcommittee on Select Revenue Measures, Committee on Ways and Means, House of Representatives

Why GAO Did This Study

GAO was asked to discuss the extension of tax provisions, sometimes called tax extenders, that either expired in 2011 or are scheduled to expire at the end of 2012. For a prior hearing of this subcommittee, the Joint Committee on Taxation (JCT) prepared a document detailing 64 expiring tax provisions. Most of these provisions are tax expenditures—reductions in a federal taxpayer's tax liability that result from special credits, deductions, exemptions and exclusions from taxation, deferral of tax liability, and preferential tax rates. Tax expenditures are often aimed at policy goals similar to those of spending programs, such as encouraging economic development in disadvantaged areas and stimulating research and development. Because revenue is foregone, these provisions may, in effect, be viewed as spending programs channeled through the tax system. For those provisions the President proposed extending through 2013, JCT estimated the budgetary effect would be at least $40 billion in foregone revenue over its 10-year budget window.

This testimony outlines factors useful for considering trade-offs when deciding whether and how to extend provisions and illustrates their application to some of the expiring provisions. GAO's testimony is based on previous work on tax reform and tax expenditures.

What GAO Recommends

GAO has made many recommendations in its previous reports on tax expenditures that reflect the factors described in this testimony. Some have been acted on, while others have not.

View GAO-12-760T. For more information, contact James R. White at (202) 512-9110 or whitej@gao.gov.

What GAO Found

Factors commonly used to evaluate tax policy, as well as other policy tools such as spending programs or regulations, can be applied to decisions about whether and how to extend expiring tax expenditures, as discussed below.

Revenue Effects. Revenues foregone through tax expenditures either reduce resources available to fund other federal activities or require higher tax rates to raise a given amount of revenue. Like decisions about spending, deciding whether to extend an expiring tax expenditure involves considering whether the benefit of the intended outcome is worth the effect on other programs or tax rates. The nation's long-term fiscal challenge makes it all the more important to ensure tax expenditures are efficient and relevant.

Criteria for Good Tax Policy. Three long-standing criteria typically used to evaluate tax policy—equity; economic efficiency; and a combination of simplicity, transparency, and administrability—can be applied to the expiring tax expenditures. Because the criteria may sometimes conflict with one another, there are usually trade-offs to consider when evaluating particular tax expenditures.

Relationship to Other Policy Tools. Tax expenditures represent just one policy tool of several—including spending, grants, loans, and regulations—that policymakers can use to achieve policy goals. If not well designed, tax expenditures can create the potential for duplication with other policy tools.

Measurement Challenges. Unavailable or insufficient data can hinder policymakers' ability to consider how the factors described above relate to particular tax expenditures. A key challenge is that data necessary to assess how a tax expenditure is used and by whom generally are not collected on tax returns unless the Internal Revenue Service needs the information to ensure tax compliance or is legislatively mandated to collect or report the information.

GAO's prior reports on tax expenditures illustrate how these factors can be used to evaluate whether and how to extend expiring tax provisions. For example, GAO found that the research tax credit, as currently designed, provides many recipients with windfall benefits earned for spending they would have done anyway. A report on domestic ethanol production—in which GAO suggested modifying or phasing out a tax credit that was duplicative of the renewable-fuel standard—highlights the importance of considering how tax expenditures relate to other policy tools. GAO's work on higher-education tax expenditures illustrates how tax expenditures that are not transparent (i.e., cannot be easily understood by taxpayers) can result in taxpayers making decisions that do not maximize their tax benefits. This work also concluded that little is known about the effectiveness of education-related federal grants, loans, and tax expenditures in promoting certain student outcomes, such as college attendance. Research gaps may be due, in part, to data and methodological challenges—such as difficulty isolating the behavioral effects of the tax expenditure under study from other changes—that have proven difficult to overcome.

Chairman Tiberi, Ranking Member Neal, and Members of the Subcommittee:

I am pleased to be here to discuss the extension of tax provisions, sometimes called tax extenders, which either expired in 2011 or are scheduled to expire at the end of 2012. These provisions were the subject of an April hearing before this subcommittee, for which the Joint Committee on Taxation (JCT) prepared a document detailing 64 expiring provisions.[1] Most of the 64 expiring provisions are tax expenditures—reductions in a federal taxpayer's tax liability that result from special credits, deductions, exemptions and exclusions from taxation, deferral of tax liability, and preferential tax rates.[2] Tax expenditures are provisions that are exceptions to the "normal structure" of the individual and corporate income tax. Other provisions that reduce tax liability, such as many deductions for business expenses, are considered to be part of the normal tax structure and are not considered tax expenditures.[3]

Tax expenditures are often aimed at policy goals similar to those of spending programs, such as encouraging economic development in disadvantaged areas, promoting energy efficiency, or stimulating

[1]For the purposes of that hearing, a tax extender was defined as any tax provision extended in title VII of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, 124 Stat. 3296 (Dec. 17, 2010), or expiring between the end of calendar year 2011 and the end of calendar year 2012, other than any provision addressed in titles I through VI of Pub. L. No. 111-312 or related to a transportation trust fund. For a list of the 64 expiring provisions, see Joint Committee on Taxation, *Legislative Background of Selected Federal Tax Provisions Scheduled to Expire in 2011 or 2012*, JCX-39-12 (Washington, D.C.: Apr. 25, 2012). Also, the list of 64 provisions does not include (1) individual income tax rate reductions, enacted into law primarily by the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, 115 Stat. 38 (June 7, 2001); (2) an increase in the exemption amount under the Alternative Minimum Tax enacted by the Jobs and Growth Tax Relief Reconciliation Act of 2003, Pub. L. No. 108-27, 117 Stat. 752 (May 28, 2003); (3) a reduction of Social Security tax rates for employees and self-employed individuals, initially enacted for 2011 by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, 124 Stat. 3296 (Dec. 17, 2010); or (4) provisions on temporary disaster relief.

[2]Examples of expiring provisions that are not tax expenditures are those covering the disclosure of prisoner tax return information to certain prison officials under 26 U.S.C. 6103(k)(10) and refunds disregarded in the administration of federal programs and federally assisted programs under 26 U.S.C. 6409.

[3]The concept of tax expenditures extends beyond the income tax. Tax expenditures also exist for other types of taxes, such as excise taxes.

research and development. Because revenue is foregone, these provisions may, in effect, be viewed as spending programs channeled through the tax system. JCT's publication providing revenue estimates for provisions contained in the President's fiscal year 2013 budget proposal does not include all of the 64 expiring provisions. However, for those provisions the President proposed extending through 2013, JCT estimated that the budgetary effect would be at least $40 billion in foregone revenue over its 10-year budget window.[4]

Like budget decisions for spending programs, decisions on whether and how to extend expiring tax provisions involve trade-offs between policy goals and revenue costs. My testimony today will outline a set of factors useful for understanding these trade-offs and illustrate their application to some of the expiring provisions. Although the main focus of my testimony is on how the factors apply to evaluating expiring tax expenditure provisions, the factors are also relevant to evaluating other expiring provisions, such as those related to tax administration. This testimony is based on previous GAO reports on tax reform and tax expenditures. Additional information on our scope and methodology is available in those published products, which are referenced throughout this statement.

The work for this testimony and the reports on tax expenditures upon which it is based were conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[4]Joint Committee on Taxation, *Estimated Budget Effects of the Revenue Provisions Contained in the President's Fiscal Year 2013 Budget Proposal*, JCX-27-12 (Washington, D.C.: Mar. 14, 2012). JCT revenue estimates compare predicted federal revenues under a proposal with predicted revenues under present law. JCT provides a year-by-year comparison for a 10-year budget window, which we provide for this and each example listed below. Negative estimates reflect decreased revenue, and positive estimates reflect increased revenue. Revenue estimates take certain behavioral responses into account.

Factors to Consider When Evaluating Expiring Tax Provisions

Factors commonly used to evaluate tax policy in general can be applied to decisions of whether and how to extend expiring tax provisions, including tax expenditure provisions. The factors, listed in table 1 and discussed below, may also be relevant to evaluating other policy tools, such as spending programs or regulations.[5]

Table 1: Factors to Consider When Evaluating Expiring Tax Provisions

1. Revenue effects
2. Criteria for good tax policy
Equity
Economic efficiency
Simplicity, transparency, and administrability
3. Relationship to other policy tools
4. Measurement challenges

Source: GAO.

1. Revenue Effects. Tax expenditures may, in effect, be viewed as spending programs channeled through the tax system. Tax expenditures can be viewed this way because they grant special tax relief for certain kinds of behavior by a taxpayer or for taxpayers in special circumstances. Revenues foregone through tax expenditures either reduce funding available for other federal activities or require higher tax rates to raise a given amount of revenue. Like decisions about spending, deciding whether to extend an expiring tax expenditure involves considering whether the benefit of the intended outcome is worth the effect on other programs or tax rates. Revenue the government would have collected absent a tax expenditure could have been used for other federal priorities, deficit reduction, or tax rate reductions.

The long-term fiscal challenge facing the United States makes it all the more important to ensure all major federal spending and tax programs and policies—including tax expenditures—are efficient and relevant. Although the expiring tax expenditures being discussed today represent only a portion of all tax expenditures, on the whole, tax expenditures represent a substantial federal commitment. Aggregate revenue losses

[5]These factors have been described in our previous reports. For example, we discuss criteria for good tax policy in GAO, *Understanding the Tax Reform Debate: Background, Criteria, & Questions*, GAO-05-1009SP (Washington, D.C.: September 2005).

were an estimated $1 trillion in fiscal year 2011.[6] For the past three decades, annual revenue losses from all tax expenditures have been similar to the amount of discretionary spending each year. As such, evaluating tax expenditures, including the expiring provisions being considered today, can help policymakers assess how to alleviate the rapidly building fiscal pressures facing our national government.

2. Criteria for Good Tax Policy. Three long-standing criteria typically used to evaluate tax policy—equity; economic efficiency; and a combination of simplicity, transparency, and administrability—can be applied to the expiring tax expenditures.[7] The criteria may sometimes conflict with one another and some are subjective. As a result, there are usually trade-offs to consider between the criteria when evaluating particular tax expenditures or other tax provisions.

- **Equity.** There is a wide range of opinions regarding the fairness or equity of tax provisions. Nevertheless, certain principles, such as a taxpayer's ability to pay taxes and the extent to which a taxpayer benefits from a provision, are useful for thinking about equity. Similarly, analytical tools, such as distributional analysis, can provide information about who pays or benefits that may inform value judgments about the equity effects of the expiring tax expenditures.
- **Economic efficiency**. The expiring tax provisions generally are efforts to redirect society's resources to achieve a variety of economic or social goals. Lightly taxing some activities targeted by the expiring provisions shifts resources to them and away from less-tax-favored activities. For example, the research tax credit is designed to increase the overall level of resources that the private sector invests in research, but this comes at the cost of fewer resources devoted to other activities. To the extent that a tax provision shifts resources to an activity that provides greater economic benefits to society as a whole than the private sector would provide on its own, there is a net

[6]Summing revenue loss estimates does not take into account possible interactions between individual provisions or potential behavioral responses to changes in these provisions on the part of taxpayers. Additionally, revenue loss estimates include the effect of certain tax credits on receipts only and not the effect of the credits on outlays. While revenue estimates do take certain behavioral responses into account, tax expenditure revenue loss estimates do not.

[7]GAO-05-1009SP.

gain that is said to improve economic efficiency. These gains improve peoples' well-being in a variety of ways, including increased income and consumption opportunities.

Estimating efficiency gains and losses can be challenging. Studies may be limited by what can be quantified; for example, studies may examine dollars spent on qualified research or the number of economic development projects built, rather than whether the use of funds for these activities constitute a better use of resources.

- **Simplicity, transparency, and administrability**. A tax expenditure's design can affect three related and desirable features of tax provisions: simplicity, transparency, and administrability. Simple tax expenditures impose less taxpayer compliance burden, such as keeping records, learning about tax rules, filing tax returns, and other compliance activities. Transparent tax provisions are easy to understand, that is, taxpayers can grasp the logic behind them. Administrable tax expenditures have lower administrative costs for both the Internal Revenue Service (IRS) and third parties, such as banks or employers required to submit information on taxpayers' income and transactions to IRS. Administration includes processing returns, programming information systems, answering taxpayer questions, and enforcement activities. Simplicity, transparency, and administrability are not the same but are interrelated. For example, extensions of expiring tax code provisions, sometimes retroactively, can add compliance burden, reduce taxpayers' understanding of the tax laws, and impose additional costs on IRS, such as more phone calls from taxpayers.[8]

3. Relationship to Other Policy Tools. Tax expenditures are one policy tool out of several—including spending, grants, loans and loan guarantees, and regulations—that policymakers can use to achieve public goals. The choice of whether to use tax expenditures, spending, or other tools depends on which approach better meets the goal at the lowest cost.

- Different policy tools may be more effective than others in achieving a particular policy outcome. With tax expenditures, certain activities may be cheaper and simpler to subsidize through the tax code because

[8]GAO, *2011 Tax Filing: Processing Gains, but Taxpayer Assistance Could Be Enhanced by More Self-Service Tools*, GAO-12-176 (Washington, D.C.: Dec. 15, 2011).

IRS has the administrative infrastructure to collect and remit money to millions of taxpayers. For example, the incremental administrative and compliance costs to deliver the tax credit for child and dependent care expenses may be relatively low compared to the costs of setting up a separate system for processing child care applications and sending vouchers to those eligible.[9]

- How a tax expenditure is designed can affect its revenue effects and how it relates to the criteria for a good tax system. For example, depending on their design, tax expenditures can result in taxpayers receiving benefits for actions they would have taken absent the tax expenditure. Also, each type of tax expenditure creates tax savings in different ways and, consequently, reduces federal revenues in different ways and may have different distributional effects. The amount of tax relief per dollar that a taxpayer receives using an exclusion, exemption, or deduction depends on the taxpayer's marginal tax rate. Generally, the higher a taxpayer's marginal tax rate, the greater the tax savings from these tax expenditure types. Tax credits reduce tax liability dollar-for-dollar, so the value of a credit is the same regardless of a taxpayer's marginal tax rate.

- The Government Performance and Results Act (GPRA) Modernization Act of 2010 (GPRAMA)[10] can help in evaluating tax expenditures in that it establishes a framework for providing a more crosscutting and integrated approach to focusing on results and improving government performance. GPRAMA makes clear that tax expenditures are to be included in identifying the range of federal agencies and activities that contribute to crosscutting goals. Moving forward, GPRAMA implementation can help inform tough choices in setting priorities as policymakers address the rapidly building fiscal pressures facing our national government.

- If not well designed or effectively implemented, tax expenditures can contribute to mission fragmentation and program overlap, thus creating the potential for duplication with other policy tools. All federal spending and tax policy tools, including tax expenditures, should be

[9]GAO, *Government Performance and Accountability: Tax Expenditures Represent a Substantial Federal Commitment and Need to Be Reexamined*, GAO-05-690 (Washington, D.C.: Sept. 23, 2005).

[10]Pub. L. No. 111-352, 124 Stat. 3866 (Jan. 4, 2011).

reexamined to ensure that they are achieving their intended purposes and are designed in the most efficient and equitable manner.

4. Measurement Challenges. Unavailable or insufficient data can hinder policymakers' ability to consider how the factors described above relate to particular tax expenditures. A key challenge is that data necessary to assess how and by whom a tax expenditure is used generally are not collected on tax returns unless IRS needs the information to ensure tax compliance or is legislatively mandated to collect or report the information. In some cases, IRS may combine reporting requirements to minimize its workload and taxpayer burden, and as a result, the information collected may not identify specific beneficiaries or activities targeted by a tax expenditure. Also, the influence of other economic and social factors can confound efforts to measure a tax expenditure's effects on efficiency and equity. We and the Office of Management and Budget (OMB) have noted that the desired outcomes of a tax expenditure or other policy tool are often the combination of effects of the program and external factors.[11]

If policymakers conclude that additional data would facilitate reexamining a particular tax expenditure, decisions would be required on what data are needed, who should provide the data, who should collect the data, how to collect the data, what it would cost to collect the data, and whether the benefits of collecting additional data warrant the cost of doing so. Another factor to consider is how to facilitate data sharing and collaborative evaluation efforts amongst federal agencies.

[11]GAO, *Designing Evaluations: 2012 Revision*, GAO-12-208G (Washington, D.C.: Jan. 31, 2012); and Office of Management and Budget, *Analytical Perspectives, Budget of the United States Government, Fiscal Year 2013* (Washington, D.C.: 2012).

Illustrating These Factors Using Examples from GAO's Past Work

Our prior reports on tax expenditures illustrate how these factors can be used to help evaluate whether and how to extend expiring tax provisions.

Domestic Ethanol Production. Our past work related to domestic ethanol production highlights the importance of considering how tax expenditures relate to other policy tools.[12] Congress has supported domestic ethanol production through two policy tools: (1) a tax credit, the most recent version of which expired after December 31, 2011, and (2) a renewable-fuel standard that generally requires transportation fuels in the United States to contain certain volumes of biofuels, such as ethanol. In 2009, we reported that the tax credit was important in helping to create a profitable corn starch ethanol industry when the industry had to fund investment in new facilities, but is less important now for sustaining the industry because most of the capital investment has already been made. We found that Congress's efforts to support domestic ethanol production through a tax credit and renewable-fuel standard were duplicative. The fuel standard is now at a level high enough to ensure that a market for domestic ethanol production exists in the absence of the ethanol tax credit. As such, we suggested that Congress consider modifying the credit or phasing it out. Congress allowed the credit to expire at the end of 2011. JCT did not include an estimate of the budgetary effect of extending the credit through December 31, 2013, in its March 2012 estimates, as the President did not propose to extend the credit.[13]

Higher Education. Our past work on higher-education tax expenditures illustrates how tax expenditures that are not transparent (i.e., cannot be easily understood by taxpayers) can result in taxpayers making decisions

[12]GAO, *Follow-up on 2011 Report: Status of Actions Taken to Reduce Duplication, Overlap, and Fragmentation, Save Tax Dollars, and Enhance Revenue*, GAO-12-453SP (Washington, D.C.: Feb. 28, 2012); *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, GAO-11-318SP (Washington, D.C.: Mar. 1, 2011); and *Biofuels: Potential Effects and Challenges of Required Increases in Production and Use*, GAO-09-446 (Washington, D.C.: Aug. 25, 2009).

[13]Joint Committee on Taxation, *Estimated Budget Effects of the Revenue Provisions Contained in the President's Fiscal Year 2013 Budget Proposal.* JCT revenue estimates compare predicted federal revenues under a proposal with predicted revenues under present law. JCT provides a year-by-year comparison for a 10-year budget window, which we provide for the examples listed below. Revenue estimates incorporate certain behavioral responses.

that do not maximize their tax benefits.[14] The tuition and fees deduction, which expired after December 31, 2011, helped students and their families pay for higher education by allowing them to deduct qualified education expenses from income that would otherwise be taxable. In 2008, we found that tax filers did not always claim higher-education tax expenditures, such as the tuition and fees deduction, that maximize their potential tax benefits, potentially because of the complexity of higher-education tax provisions.[15] Further analysis and simplification of the tax provisions involved could potentially increase transparency in the system. JCT estimates the budgetary effect of extending this provision through December 31, 2013, would be about $1.5 billion in fiscal years 2012-2022.

Higher education tax expenditures also illustrate how measurement and methodological challenges can impede evaluating their effectiveness. In 2005, we reported that little is known about the effectiveness of education-related federal grants, loans, and tax expenditures in promoting student outcomes including college attendance, students' choice among colleges, and the likelihood that students will continue their education. We also found that research gaps may be due, in part, to data and methodological challenges—such as difficulty isolating the behavioral effects of the tax expenditure under study from other changes—that have proven difficult to overcome.

Research Tax Credit. Our past work on the research tax credit provides insights into how improving the design of a tax expenditure could improve its economic efficiency and reduce revenue costs.[16] Economists widely agree that some government subsidy for research is justified because the social returns from research exceed the private returns that investors

[14]GAO, *Higher Education: Multiple Higher Education Tax Incentives Create Opportunities for Taxpayers to Make Costly Mistakes*, GAO-08-717T (Washington, D.C.: May 1, 2008); *Student Aid and Postsecondary Tax Preferences: Limited Research Exists on Effectiveness of Tools to Assist Students and Families through Title IV Student Aid and Tax Preferences*, GAO-05-684 (Washington, D.C.: July 29, 2005).

[15]In a forthcoming report, we will update our analysis on the extent to which filers select higher education provisions that maximize their tax benefit.

[16]GAO-11-318SP; GAO, *Tax Policy: The Research Tax Credit's Design and Administration Can Be Improved*, GAO-10-136 (Washington, D.C.: Nov. 6, 2009); *Tax Policy: Additional Information on the Research Tax Credit*, GAO/T-GGD-95-161 (Washington, D.C.: May 10, 1995).

receive. Since 1981, the research tax credit has provided significant subsidies (an estimated $6 billion for fiscal year 2011) to encourage business to invest in research and development. The most recent version of the credit expired after December 31, 2011. Despite the widespread support for the concept of a credit for increasing research activities, concerns have been raised about the cost-effectiveness of the design of the current credit and its administrative and compliance costs. We found that the research tax credit, as currently designed, distributes incentives unevenly across taxpayers and provides many recipients with windfall benefits, earned for research that they would have done anyway. For example, we found that for those claiming the regular credit, more than half of the credit such claimants earned was a windfall. The disparities in incentives can lead to an inefficient allocation of investment resources across businesses, and the windfall benefits represent foregone tax revenue that does not contribute to the credit's objective. Accordingly, we suggested that Congress modify the research tax credit to reduce economic inefficiencies and excessive revenue costs. JCT estimates the budgetary effect of the President's proposal to enhance and make permanent this provision would be about $99 billion in fiscal years 2012-2022.

Our past work on the research tax credit also provides insight into how tax expenditure design can affect transparency and administrability. In 2009, we reported that there are numerous areas of disagreement between IRS and taxpayers concerning what types of spending qualify for the research credit because of issues such as the definitions used to determine eligibility and the documentation needed to support the claim. These disputes raise the cost of the credit to both taxpayers and IRS and diminish the credit's incentive effect by making the ultimate benefit to taxpayers less certain. We made several recommendations to the Department of the Treasury (Treasury) to reduce the uncertainty that some taxpayers have about their ability to earn credits for their research activities. To date, Treasury has not fully implemented these recommendations.

New Markets Tax Credit (NMTC). Our past work on the NMTC provides examples highlighting issues of simplicity and the need to consider tax expenditures in light of other policy tools.[17] Congress enacted the NMTC in 2000 as part of an ongoing effort to revitalize low-income communities. Treasury awards tax credits to Community Development Entities (CDE), which sell the credits to investors to raise funds. JCT estimates the budgetary effect of the President's proposal extending and modifying the NMTC would be about $3.5 billion in fiscal years 2012-2022.[18]

In 2007, we reported that the NMTC appeared to increase investment in low-income communities.[19] However, in 2010 we reported that the complexity of NMTC transaction structures appeared to make it difficult to complete smaller projects and often results in less of the money investors initially put into the project ending up in low-income community businesses—the beneficiaries of NMTC financing—than would be the case if the program were simplified. We suggested Congress consider offering grants to CDEs that would provide the funds to low-income community businesses and assess the extent to which the grant program would increase the amount of federal subsidy provided to low-income community businesses compared to the NMTC. One option would be for Congress to set aside a portion of funds to be used as grants and a portion to be used as tax credits under the current NMTC program to facilitate a comparison of the two programs.

Revitalization Programs. Our past work on revitalization programs, including the Empowerment Zone (EZ), Enterprise Community (EC), and Renewal Community (RC) programs, provides an example of

[17]GAO-11-318SP; GAO, *New Markets Tax Credit: The Credit Helps Fund a Variety of Projects in Low-Income Communities, but Could Be Simplified*, GAO-10-334 (Washington, D.C.: Jan. 29, 2010).

[18]The President's Fiscal Year 2013 Budget proposed extending the program through 2013 with $5 billion available for allocation in both 2012 and 2013. The proposal would also modify the NMTC to offset alternative minimum tax liability.

[19]GAO, *Tax Policy: New Markets Tax Credit Appears to Increase Investment by Investors in Low-Income Communities, but Opportunities Exist to Better Monitor Compliance*, GAO-07-296 (Washington, D.C.: Jan. 31, 2007).

measurement challenges when evaluating tax expenditures.[20] Congress established the EZ, EC, and RC programs to reduce unemployment and generate economic growth in selected Census tracts. Urban and rural communities designated as EZs, ECs, or RCs received grants, tax expenditures, or a combination of both to stimulate community development and business activity. Tax provisions for empowerment zones and the District of Columbia (DC) enterprise zone (including the first-time homebuyer credit for the District of Columbia) expired after December 31, 2011. JCT estimates that the budgetary effect of extending these provisions through December 31, 2013, would be $585 million from fiscal years 2012-2022.

Our prior work has found improvements in certain measures of community development in EZ communities, but data and methodological challenges make it difficult to establish causal links. In the case of the EZ, EC, and RC programs, the lack of tax benefit data limited the ability of the Department of Housing and Urban Development (HUD) and the Department of Agriculture to evaluate the overall mix of grant and tax programs to revitalize selected urban and rural communities. In response to our recommendations, HUD and the IRS collaborated to share data on some program tax credits. However, the IRS data did not tie the program tax incentives to specific designated communities, making it difficult to assess the effect of the tax benefits. We have previously reported that if Congress authorizes similar programs that rely heavily on tax expenditures in the future, it would be prudent for federal agencies responsible for administering the programs to collect information necessary for determining whether the tax benefits are effective in achieving program goals.[21]

Nonbusiness Energy Property Credit. Our work on the nonbusiness energy property credit highlights the importance of considering revenue

[20]GAO-11-318SP; GAO, *Revitalization Programs: Empowerment Zones, Enterprise Communities, and Renewal Communities*, GAO-10-464R (Washington, D.C.: Mar. 12, 2010); *Empowerment Zone and Enterprise Community Program: Improvements Occurred in Communities, but the Effect of the Program Is Unclear*, GAO-06-727 (Washington, D.C.: Sept. 22, 2006); *Community Development: Federal Revitalization Programs Are Being Implemented, but Data on the Use of Tax Benefits Are Limited*, GAO-04-306 (Washington, D.C.: Mar. 5, 2004).

[21]GAO, *Community Development: Limited Information on the Use and Effectiveness of Tax Expenditures Could Be Mitigated through Congressional Action*, GAO-12-262 (Washington, D.C.: Feb. 29, 2012).

foregone and the criteria for good tax policy when determining whether and how to extend specific tax provisions.[22] Enacted as part of the Energy Policy Act of 2005, the nonbusiness energy property credit was intended to increase homeowners' investment in energy-conserving improvements, such as insulation systems, exterior windows, and metal roofs, by reducing their after-tax costs. The credit expired on December 31, 2011. JCT estimates the budgetary effect of the President's proposal extending and modifying this provision through December 31, 2013, would be about $2.4 billion in fiscal years 2012-2022.

The design of the credit affects its economic efficiency and revenue costs. The credit combines features of both cost-based and performance-based credits. Cost-based credits provide incentives that are usually a fixed percentage of qualified spending, whereas performance-based credits provide incentives that are tied to specific measures of energy savings and therefore may require before and after energy audits. The nonbusiness energy property credit is cost-based in that the amount of credit claimed is directly proportional to a taxpayer's qualified spending. It is performance-based in that only certain qualifying purchases are eligible. In 2012, we reported that both the performance-based and cost-based credits have advantages and disadvantages with neither design being unambiguously the better option based on current information. For example, a performance-based credit is more likely to effectively reduce energy use and carbon dioxide emissions because it rewards energy savings from the investment rather than the cost-based credit's rewarding of spending regardless of whether this spending results in energy savings. However, the performance-based credit may have significant up-front costs for energy audits, not required by the cost-based credit, which could reduce its effectiveness by discouraging investment.

The credit's design also can affect its administrability and equity. For taxpayers who do invest, these up-front costs may mean that a performance-based credit may have significantly higher taxpayer compliance and IRS administrative costs than a cost-based credit. Views on what is a fair distribution of the credit's costs and benefits can differ dramatically across individuals. However, whatever one's views of

[22]GAO, *Energy Conservation and Climate Change: Factors to Consider in the Design of the Nonbusiness Energy Property Credit*, GAO-12-318 (Washington, D.C.: Apr. 2, 2012).

fairness, an analysis of the distribution of costs and benefits by such factors as income level can be useful.

Indian Reservation Depreciation. Our work on this provision is another example of how measurement challenges can hinder evaluation of tax expenditures.[23] The provision allows taxpayers to take larger deductions for depreciation from their business income earlier than they otherwise would be allowed for certain property on Indian reservations. For the deduction, taxpayers are not required to identify the reservation on which the depreciated property is located, preventing assessments linking investment to economic indicators on specific reservations. We suggested Congress consider requiring IRS to collect this information, but we noted that Congress would need to weigh the associated costs of collecting and analyzing the information as well as the effects on IRS's other priorities. The credit expired on December 31, 2011. JCT estimates the budgetary effect of extending this provision through December 31, 2013, would be $100 million in fiscal years 2012-2022.

In closing, considering the various factors I have laid out today can help when deciding whether and how to extend expiring tax provisions. Improving tax expenditure design may enable individual tax expenditures to achieve better results for the same revenue loss or the same results with less revenue loss. Also, reductions in revenue losses from eliminating ineffective or redundant tax expenditures could be substantial depending on the size of the eliminated provisions. As we have stated in prior reports,[24] we believe that tax expenditure performance is an area that would benefit from enhanced congressional scrutiny as Congress considers ways to address the nation's long-term fiscal imbalance.

Chairman Tiberi, Ranking Member Neal, and Members of the Subcommittee, this completes my prepared statement. I would be happy to respond to any questions you and Members of the Subcommittee may have at this time.

[23]GAO, *Tax Expenditures: Available Data Are Insufficient to Determine the Use and Impact of Indian Reservation Depreciation*, GAO-08-731(Washington, D.C.: June 26, 2008).

[24]GAO-05-690 and GAO, *Tax Policy: Tax Expenditures Deserve More Scrutiny*, GAO/GGD/AIMD-94-122 (Washington, D.C.: June 3, 1994).

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