Treasury Department Appropriations, FY2017

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Summary

At its most basic level of organization, the Treasury Department is a collection of departmental offices and operating bureaus. The bureaus as a whole typically account for 95% of Treasury's budget and workforce. Most bureaus and offices are funded through annual appropriations.

Treasury appropriations are distributed among 11 accounts in FY2016: (1) Departmental Offices (DO), (2) Office of Terrorism and Financial Intelligence (TFI), (3)Department-wide Systems and Capital Investments Program (DSCIP), (4) Office of Inspector General (OIG), (5) Treasury Inspector General for Tax Administration (TIGTA), (6) Special Inspector General for the Troubled Asset Relief Program (SIGTARP), (7) Financial Crimes Enforcement Network (FinCEN), (8) Bureau of the Fiscal Service (BFS), (9) Alcohol and Tobacco Tax and Trade Bureau (ATTB), (10) Community Development Financial Institutions Fund (CDFIF), and (11) the Internal Revenue Service (IRS).

The President's budget request for FY2017 calls for the Treasury Department to receive $13.144 billion in appropriations, including a rescission of $657 million for the Treasury Forfeiture Fund (TFF). Of the requested funds, $12.280 billion would go to the IRS; $353 million to the BFS; $217 million to DO; $117 million to TFI; $246 million to CDFIF; $170 million to TIGTA; $115 million to FinCEN; $106 million to ATTB; $41 million to SIGTARP; $37 million to OIG; and $5 million to DSCIP.

In early July 2016, the House approved a bill (H.R. 5485) that provided appropriations for the Treasury Department and several other agencies in FY2017. Under the measure, Treasury would receive $11.694 billion in appropriations, including a rescission of $754 million from the TFF. This amount is $248 million less than the amount enacted for FY2016 and $1.450 billion less than the budget request.

During the previous month, the Senate Appropriations Committee reported a bill (S. 3067) to fund Treasury in FY2017. Under the measure, Treasury would receive $12.040 billion in appropriations, including a rescission of $657 million from the TFF. The recommended amount is $98 million below the amount enacted for FY2016 and $1.104 billion less than the budget request.

The three FY2017 budget proposals for Treasury raise several issues for Congress. One concerns the status of funding for the Office of Terrorism and Financial Intelligence (TFI): H.R. 5485 (as passed by the House) would create a separate appropriations account for the TFF, whereas both the budget request and S. 3067 (as reported) would combine funding for the office with overall DO funding.

Another issue is the future status of the Healthy Food Initiative (HFI), a CDFIF program. The budget request includes designated funding for HFI, but neither S. 3067 nor H.R. 5485 does so.

Proposed funding for the IRS in FY2017 focuses attention on three additional issues: (1) the appropriate size of the IRS budget, (2) the advantages and disadvantages of using discretionary funding cap adjustments under the Balanced Budget Act of 2011 to pay for new IRS enforcement initiatives, and (3) the impact on the size of the IRS budget of the current budget scoring convention of disregarding the net revenue effect of agency administrative programs.

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This report examines FY2017 appropriations for the Treasury Department and its operating bureaus, including the Internal Revenue Service (IRS). More specifically, it describes the President's budget request for Treasury in FY2017 and the current status of legislation in the House and Senate to fund the department. In addition, the report discusses selected policy issues raised by the budget request and the House and Senate appropriations bills.

Organizational Structure and Functions

The Treasury Department performs a variety of critical functions. Foremost among them are

- Protecting the nation's financial system against illegal activities, such as money laundering and terrorist financing;
- Collecting tax revenue and enforcing tax laws;
- Managing and accounting for the federal debt;
- Administering the federal government's finances;
- Regulating certain financial institutions; and
- Producing and distributing coins and currency.

At its most basic level of organization, the Treasury Department is a collection of departmental offices and operating bureaus. In general, departmental offices formulate and implement policy initiatives and manage Treasury's day-to-day operations, while operating bureaus handle specific tasks and duties assigned to Treasury, often as a result of statutory mandates. In the past decade, the bureaus have accounted for more than 95% of the Treasury Department's funding and workforce, on average.

With one exception, the bureaus and offices can be divided into those engaged in financial management and regulation and those engaged in law enforcement. In recent years, the Comptroller of the Currency, U.S. Mint, Bureau of Engraving and Printing, Bureau of the Fiscal Service, and Community Development Financial Institutions Fund have been involved in the management of the federal government's finances or the supervision and regulation of key elements of the U.S. financial system. By contrast, law enforcement has been central to the duties handled by the Alcohol and Tobacco Tax and Trade Bureau, Financial Crimes Enforcement Network, and the Treasury Forfeiture Fund. The creation of the Department of Homeland Security in 2002 sharply curtailed Treasury's direct involvement in law enforcement. The lone exception to this dichotomy, arguably, is the IRS, whose main responsibilities encompass both the collection of tax revenue and the enforcement of tax laws and regulations.

The operating budgets for most Treasury bureaus and offices are funded largely through annual discretionary appropriations. This is true for the IRS, Bureau of the Fiscal Service, Financial Crimes Enforcement Network, Alcohol and Tobacco Tax and Trade Bureau, Office of the Inspector General, Treasury Inspector General for Tax Administration, Special Inspector General for the Troubled Asset Relief Program, and Community Development Financial Institutions Fund. By contrast, funding for the

Treasury Franchise Fund, the U.S. Mint, the Bureau of Engraving and Printing, and the Office of the Comptroller of the Currency comes exclusively from the fees they collect for the services and products they provide to the public and to other government agencies.

Treasury Appropriations Accounts and Their Purposes

Treasury appropriations in FY2016 were distributed among the following 11 accounts:

Departmental Offices (DO)

The Departmental Offices account covers the salaries and other expenses of offices in Treasury that formulate and implement policies dealing with domestic and international finance and taxation and the state of the domestic economy. Funding is also provided through DO for Treasury's financial and personnel management, procurement operations, and information and telecommunications systems.

Office of Terrorism and Financial Intelligence (TFI)

The Office of Terrorism and Financial Intelligence account pays for the salaries and other expenses associated with TFI's programs to prevent the use of the financial system by terrorist groups and their financial backers, drug cartels, and others who seek to launder funds from illegal activities. TFI also plays a central role in enforcing economic sanctions against countries deemed a threat to national security and shares the information it gathers with domestic and foreign law enforcement and intelligence agencies.

Department-wide Systems and Capital Investments Program (DSCIP)

The Department-wide Systems and Capital Investments Program account pays for investments in new technology and capital improvements intended to upgrade Treasury's administrative processes and increase the overall efficiency of its operations.

Office of Inspector General (OIG)

The Office of Inspector General account covers the salaries and other expenses related to the audits and investigations conducted by OIG staff. These evaluations are intended to improve the efficiency and effectiveness of Treasury's operations and programs; prevent waste, fraud, and abuse; and inform the Treasury Secretary and Congress about problems or shortcomings in those activities.

Treasury Inspector General for Tax Administration (TIGTA)

The Treasury Inspector General for Tax Administration account pays for salaries and other expenses related to the audits and investigations conducted by TIGTA staff. These evaluations focus primarily on the efficiency and effectiveness of IRS programs and operations. TIGTA's investigations are also intended to deter or prevent fraud and waste in IRS programs and operations and recommend changes in those activities to solve problems or remedy deficiencies.

Special Inspector General for the Troubled Asset Relief Program (SIGTARP)

The Special Inspector General for the Troubled Asset Relief Program account pays for the salaries and other expenses related to the audits and investigations into the management and effectiveness of TARP conducted by SIGTARP staff. The office was established by the same law that created TARP: the Emergency Economic Stabilization Act (P.L. 110-343).[1]

[1] For more information see CRS Report R41427, *Troubled Asset Relief Program (TARP): Implementation and Status*, (continued...)

Financial Crimes Enforcement Network (FinCEN)

The Financial Crimes Enforcement Network account covers the salaries and other expenses related to the activities of FinCEN, whose main responsibility is to protect the domestic financial system from illicit uses, such as money laundering and terrorist financing. The statutory basis for this role is the Bank Secrecy Act (BSA, P.L. 91-508). FinCEN administers key provisions of the act by developing and implementing regulations and other guidance and working with private financial institutions and eight federal agencies to ensure the financial industry complies with the BSA's strict reporting requirements for a broad range of financial transactions.

Bureau of the Fiscal Service (BFS)

The Bureau of the Fiscal Service account funds two functions that up until FY2014 were handled by separate bureaus with separate appropriations accounts: the Financial Management Service and the Bureau of Public Debt. As a result of a consolidation of the two bureaus that began in FY2015, the BFS account covers the salaries and other expenses related to developing and implementing payment policies and procedures for federal agencies, collecting debts owed to those agencies and state governments, and providing financial accounting, reporting, and financing services for the federal government and its agents. In addition, the BFS account covers the salaries and other expenses related to the federal government's public debt operations and the sale of U.S. bonds.

Alcohol and Tobacco Tax and Trade Bureau (ATTB)

The Alcohol and Tobacco Tax and Trade Bureau account pays for the salaries and other expenses related to the activities of ATTB, which was established by the Homeland Security Act of 2002 (P.L. 107-296). ATTB enforces certain laws governing the domestic sale and production of alcohol and tobacco products. It also has jurisdiction over the federal consumer safety laws governing the consumption of alcohol and tobacco products.

Community Development Financial Institutions Fund (CDFIF)

The Community Development Financial Institutions Fund account funds the activities of community development financial institutions (CDFIs). These institutions (which include community development banks, credit unions, and venture capital funds) provide grants, loans, and equity capital for affordable housing projects, small businesses, and community development projects in eligible areas. In addition, the CDFIF administers the Bank Enterprise Award (BEA) program and the New Markets tax credit. Since its creation in 1994, the CDFIF has awarded more than $2.0 billion to community development financial institutions, community development entities (CDEs), and depository institutions insured by the Federal Deposit Insurance Corporation through the CDFI Program; the Native American CDFI Assistance Program; and the BEA program.[2] In addition, the fund has allocated about $40 billion in New Markets tax credits to CDEs since the credit was created in 2000.

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[2] U.S. Department of the Treasury, *Community Development Financial Institutions Fund: FY2016 President's Budget* (Washington, DC: February 2, 2015), p. 3.

Internal Revenue Service (IRS)

The Internal Revenue Service account covers the salaries and other expenses related to IRS's operations. Two critical components of those operations are the services it offers taxpayers to help them understand and meet their tax obligations and the measures it takes to improve voluntary taxpayer compliance, including enforcement measures. Some appropriated funds are used to develop or upgrade business operations and information systems, as part of an ongoing effort by the IRS to improve the effectiveness and efficiency of taxpayer services and enforcement.

FY2017 Treasury Appropriation Accounts: Current Status and Issues for Congress

This section reviews the Obama Administration's FY2017 budget request for the Treasury Department and congressional action on the request. In addition, it discusses notable policy issues raised by the budget request or the House and Senate appropriations bills. These details are provided for each of the Treasury appropriation accounts (which number 10 or 11, depending on whether funding for TFI is counted as a separate account or folded into the DO account.

Table 1 shows the enacted appropriations for each Treasury account in FY2016, the President's FY2017 request, and the amounts recommended for FY2017 by the House and the Senate Appropriations Committee.

Table 1. Department of the Treasury Appropriations, FY2016-FY2017

(in millions of dollars)

Appropriation Account	FY2016 Enacted	FY2017 President's Request	H.R. 5485	S. 3067	FY2017 Enacted[a]
Departmental Offices (Salaries and Expenses)	$222.5	$334	$250	$347	
Department-wide Systems and Capital Investments	5	5	—	5	
Office of Terrorism and Financial Intelligence	117	(117)[a]	120	(123)[a]	
Cybersecurity Enhancement	—	110	—	48	
Office of Inspector General	35	37	37	37	
Treasury Inspector General for Tax Administration	167	170	170	170	
Special Inspector General for Troubled Asset Relief Program	41	41	41	41	
Community Development Financial Institutions Fund	233.5	246	250	233.5	
Financial Crimes Enforcement Network	113	115	119	114	
Bureau of the Fiscal Service[b]	348	353	353	353	
Alcohol and Tobacco Tax and Trade Bureau	106	106	111	111	
Internal Revenue Service (total)	11,235	12,280	10,999	11,235	
Taxpayer Services	*2,156*	*2,406*	*2,156*	*2,156*	
Enforcement[c]	*4,860*	*5,216*	*4,760*	*4,860*	
Operations Support Activities[d]	*3,638*	*4,314*	*3,502*	*3,638*	
Business Systems Modernization	*290*	*343*	*290*	*290*	
General Provision	*290*	—	*290*	*290*	
Rescissions: Treasury Forfeiture Fund	(-700)	(-657)	(-754)	(-657)	

Appropriation Account	FY2016 Enacted	FY2017 President's Request	H.R. 5485	S. 3067	FY2017 Enacted[a]
Total (Discretionary only)	**$11,942**	**$13,144**	**$11,697**	**$12,040**	

Sources: H.Rept. 114-624, S.Rept. 114-280, and the *Executive Summary* of the Administration's FY2017 Budget Request for the Treasury Department.

Notes: Figures may not sum owing to rounding.

a. Under P.L. 114-223, each Treasury appropriations account is being funded at FY2016 amounts, less a rescission of 0.469%, through December 9, 2016. For more details, see CRS Report R44653, *Overview of Continuing Appropriations for FY2017 (H.R. 5325)*.

b. These amounts are included in the appropriations for Departmental Offices.

c. The requested appropriation for enforcement in FY2017 includes $231 million in additional funds as a program integrity cap adjustment for IRS enforcement initiatives to reduce future budget deficits.

d. The requested appropriation for operations support in FY2017 includes $283 million in additional funds as a program integrity cap adjustment for IRS enforcement initiatives to reduce future budget deficits.

Departmental Offices

Budget Request

The President's FY2017 budget request for the Treasury Department includes $334 million in appropriations for DO, or $5 million less than the amount enacted for FY2016. With the addition of anticipated reimbursable expenses from activities funded through the DO account, the DO operating budget would total an estimated $437 million in FY2017.

Of the requested funding, $38 million would go to executive direction, $59 million to international affairs and economic policy, $76 million to domestic finance and tax policy, $117 million to TFI, and $43 million to Treasury management and related programs.[3] In addition, $22 million would be available until September 30, 2018 for Treasury's Financial Statement Audit and Internal Control program, the modernization of Treasury's information technology systems, and the development and implementation of programs in the Office of Critical Infrastructure Protection and Compliance Policy.

Relative to enacted funding for FY2016, the budget request calls for increases of $2.1 million for program expansions (including data risk analysis and rationalization of the tax code) and $5.3 million to maintain FY2016 levels of operation. It also is built around decreases of $1.0 million from non-recurring expenses, $1.4 million from efficiency improvements; $7.0 million from covering Treasury's cost for administering the Gulf Coast Restoration Trust Fund in through a withdrawal of $7.0 million from the Fund, and $3.0 million from transferring DO cybersecurity investments to a new account: the Cybersecurity Enhancement Account.

H.R. 5485

The House passed a bill (H.R. 5485) on July 7, 2016 that would provide $250 million in appropriations for DO in FY2017. This amount does not include funding for TFI, which is addressed in a separate account under the bill. According to the text of the bill, $57 million of the

[3] For more details, see http://www.treasury.gov/about/budget-performance/CJ15/01.%20DO%20e.pdf.

recommended appropriation would be available through the end of FY2018 to cover costs associated with Treasury's Financial Statement Audit and Internal Control Program, the modernization of Treasury's information technology, the oversight and administration of the Gulf Coast Restoration Trust Fund, and the development and operation of programs in Treasury's Office of Critical Infrastructure Protection and Compliance Policy.

In its report on H.R. 5485, the House Appropriations Committee directs Treasury to continue making it a priority to enforce laws intended to prevent the laundering of funds from wildlife trafficking and ivory poaching.[4] Treasury is required to submit reports six months apart in FY2017 to the two appropriations committees on the steps it is taking to implement the National Strategy on Wildlife Trafficking.

The Committee also directs Treasury to submit a report to Congress sometime during FY2017 on the status of bilateral and multilateral sanctions against Iran and the steps taken by the "international community" to enforce them.

Another issue addressed by the committee is the operations of the Financial Stability Oversight Council (FSOC) and the Office of Financial Research (OFR). Both entities were created by the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203). Under current law, each office funds its operations by collecting fees from designated private institutions. As a result, Congress exercises no direct control over their operations through the appropriations process. To enhance congressional influence, the committee directs OFR to submit quarterly reports on its "budget obligations;" H.R. 5485 would also subject funding for OFR to the annual appropriations process.

S. 3067

S. 3067, as reported by the Senate Appropriations Committee on June 16, would provide DO with $347 million in appropriations in FY2017, or $3 million more than the budget request.[5] Of that amount, $123 million would be used to fund the operations of TFI, or $6 million more than the budget request. The measure would not create a separate appropriations account for TFI.

In its report on the bill, the committee directs Treasury to continue using its powers to stop money laundering related to wildlife trafficking and ivory poaching.

The report addresses several other issues. One is the financial literacy of American adults. According to data from Treasury's Office of Financial Education (OFE), one in seven adults is incapable of successfully completing financial tasks beyond those requiring the most "rudimentary" financial literacy skills. The committee recommends that OFE examine the extent to which individuals with rudimentary financial skills benefit from federal financial literacy programs and develop "measurable" objectives for the improvement of those skills for the Financial Literacy and Education Commission.

The committee also expresses concern about Treasury's administration of economic sanctions against Iran and directs the agency to prepare two reports related to the issue for the committee in FY2017. One should identify every person or entity that was removed from the Iran sanction list in the past two years and determine whether that person or entity subsequently engaged in

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[4] U.S. Congress, House Committee on Appropriations, *Financial Services and General Government Appropriations Bill, 2017*, report to accompany H.R. 5485, 114th Cong., 2nd sess., H.Rept. 114-624 (Washington, DC: GPO, 2016), p. 7.

[5] U.S. Congress, Senate Appropriations Committee, *Financial Services and General Government Appropriations Bill, FY2017*, report accompanying S. 3067, 114th Cong. 2nd sess., S.Rept. 114-280 (Washington, DC: GPO, 2016), p. 10.

prohibited activities. The other report should focus on the number of non-nuclear sanctions designations related to Iran issued by Treasury in the past three fiscal years.

Issue for Congress

Proposed DO funding in FY2017 again raises the question of how TFI's budget should be managed. The Obama Administration and the Senate Appropriations Committee want TFI appropriations to remain a component of DO appropriations. But the House Appropriations Committee disagrees with that view and would establish a separate appropriation account for TFI. A key consideration in resolving this disagreement is how congressional control over the amount of money available for TFI's operations and the use of those funds would be affected by carving out a separate account for the office.

Department-wide Systems and Capital Investments

Budget Request

The FY2017 Treasury budget request calls for $5.0 million in appropriations for DSCIP, or the same amount that was enacted for FY2016.[6] There were no new appropriations for the account in FY2012 and FY2013.

According to Treasury budget documents, the funds would be used for two purposes. A majority of the money ($3.0 million) would be used to ensure that the Department and its bureaus can fulfill their basic responsibilities under the Data Accountability and Transparency Act (DATA, P.L. 113-101). The act requires the federal government to make available to the general public consistent, reliable, and helpful online data about how it spends taxpayer dollars. Treasury and the Office of Management and Budget are responsible for implementing by May 2018 financial data standards for reporting spending by federal agencies and other entities that receive federal funds. The requested funds for FY2017 would be used to expand Treasury's Enterprise Data Management infrastructure to create a data repository that Treasury bureaus could use to undertake their own data analysis and management.

The remaining $2.0 million would go to a proposed project to repair the bridge connecting the motor pool entrance and the Main Treasury Building.

H.R. 5485

H.R. 5485, as passed by the House, provides no funding for DSCIP in FY2017.

S. 3067

The bill, as reported by the Senate Appropriations Committee, recommends that DSCIP receive $5 million in appropriations in FY2017, or the same as the amount enacted for FY2016 and the budget request.

The report on S. 3067 provides no guidance on how the funds should be used. But it does include an administrative provision (Section 123) requiring Treasury to submit an annual "Capital Investment Plan" to the two appropriations committees within 30 days after the release of the

[6] U.S. Department of the Treasury, *Department-Wide Systems and Capital Investments Program: FY 2017 President's Budget* (Washington, DC: February 9, 2016), p. 3, available at https://www.treasury.gov/about/budget-performance/CJ17/09.%20DSCIP%20FY2017%20CJ.PDF.

annual budget request. Such a document is supposed to help the committees understand how appropriated funds are being used for multi-year projects.

Office of Inspector General

Budget Request

The Obama Administration's FY2017 budget request for the Treasury Department includes $37.0 million in appropriated funds for OIG or $1.6 million more than the amount enacted for FY2016.[7] With the addition of an estimated $10.5 million in payments for services provided by OIG to other agencies, its operating budget for FY2017 would total an estimated $47.5 million.

Of the requested funding, $29.6 million would be used for audits, and $7.4 million for investigations. Moreover, $2.8 million of the requested amount would be available through the end of FY2018 for audits and investigations performed under Section 1608 of the Resources and Ecosystems Sustainability, Tourist Opportunities and Revived Economies of the Gulf Coast States Act of 2012 (P.L. 112-141, the RESTORE Act).

The audits and investigations would satisfy the requirements of the Inspector General Act, as well as those of several other statutes. Foremost among those laws are the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act, P.L. 111-203), the Federal Information Security Management Act (P.L. 107-347), the Federal Deposit Insurance Act of 1950 (P.L. 81-797), the Improper Payments Elimination and Recovery Act (P.L. 111-204), the Small Business Jobs Act of 2010 (P.L. 111-240), the Digital Accountability and Transparency Act of 2014 (P.L. 113-101), and the RESTORE Act.

H.R. 5485

H.R. 5485, as passed by the House, would provide $37.0 million in appropriations for OIG in FY2017, matching the budget request. In its report on the bill, the House Appropriations Committee notes that the recommended funding should cover the cost to Treasury of overseeing the RESTORE Act.[8]

S. 3067

The bill reported by the Senate Appropriations Committee (S. 3067) also recommends that OIG receive $37.0 million in appropriations in FY2017.

In its report on the bill, the committee "encourages" the Inspector General (IG) to look into the security of Treasury's facilities and its information networks and systems.[9]

The committee also urges the IG to undertake an audit of the CDFIF's administration of the grants it distributes. More specifically, the committee wants the IG to investigate the following issues: (1) the extent to which applications have been approved according to current laws and regulations, (2) whether the fund has adequate internal financial controls, (3) whether it monitors

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[7] U.S. Department of the Treasury, *Office of Inspector General: FY2017 President's Budget* (Washington, DC: February 9, 2016), available at https://www.treasury.gov/about/budget-performance/CJ17/10.%20OIG%20FY%202017%20CJ.PDF.

[8] U.S. Congress, House, Committee on Appropriations, *Financial Services and General Government Appropriations, 2017*, report to accompany H.R. 5485, 114th Cong., 2nd sess., H.Rept. 114-624 (Washington, DC: GPO, 2016), p. 13.

[9] Senate Appropriations Committee, S.Rept. 114-280, p. 16.

the grants it awarded, and (4) whether there is a "process" for assessing the extent to which outcomes match program goals.

In addition, the committee "instructs" the IG to continue monitoring the treatment of BFS employees who were employed by the Fiscal Management Service before it merged with the Bureau of Public Debt. Of particular concern is the extent to which these employees have been harassed, demoted, or subject to other actions that would encourage them to leave the BFS.

Cybersecurity Enhancement Account

Budget Request

In its budget request for the Treasury Department in FY2017, the Obama Administration proposes to create a new appropriations account dedicated to funding centralized programs intended to strengthen the Department's protection against and improve its response to threats to the security of its information systems and those of Treasury's bureaus. According to Treasury budget documents, the proposed Cybersecurity Enhancement Account (CEA) would also be designed to "mitigate" threats to cybersecurity of the U.S. financial system.

For FY2017, the Administration is requesting $109.8 million in appropriations for the new account.[10] This amount would be divided between spending on Treasury-wide cybersecurity protection programs ($48 million) and spending on similar programs at the IRS ($62 million). Under the budget request, funds in the CEA could be obligated and spent through "allocation accounts" that would be available for individual offices and bureaus.

Treasury-wide investments would focus on improving the security of several information systems used by most or all offices and bureaus, including the Treasury Secure Data Network and the Fiscal Service Trusted Internet Connections.

In the case of the IRS, funds from the CEA would be used to upgrade the security of its existing information systems and to upgrade the capability of the agency's e-Authentication system to verify the identity of existing users, register new users, and "validate their credentials for ongoing system access."

H.R. 5485

The bill, as passed by the House, would not create a CEA.

S. 3067

The bill, as reported by the Senate Appropriations Committee, endorses the Administration's request to establish a new appropriations account for new cybersecurity investments. It recommends that the CEA receive $47.7 million in appropriations in FY2017 to cover Treasury-wide cybersecurity programs only. These would include investments intended to bolster the security of the Treasury Secure Data Network and the Fiscal Service Trust Internet Connections.[11] None of the recommended funding could be used for IRS's cybersecurity programs.

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[10] U.S. Department of the Treasury, *Cybersecurity Enhancement Account: FY2017 President's Budget* (Washington, DC: February 9, 2016), available at https://www.treasury.gov/about/budget-performance/CJ17/08.%20Cybersecurity%20Enhancement%20Account%20FY%202017%20CJ.PDF.

[11] Senate Finance Committee, S.Rept. 114-280, p. 14.

In its report on the bill, the committee directs the Treasury Chief Information Officer (CIO) to review and approve each proposed investment under the CEA. None of the money in the account could be spent without the prior approval of the CIO. In addition, the CIO would have to submit quarterly reports to both appropriations committees on the status of each approved investment.

To ensure that the CIO retains the desired degree of control over the use of CEA funds, the bill would not allow the transfer of funds from the account. Nor would it allow the funds to be obligated and spent through the allocation accounts that would be available to individual offices and bureaus under the budget request.

Office of the Special Inspector General for the Troubled Asset Relief Program

Budget Request

Under the budget request, SIGTARP would receive $41.2 million in appropriations for FY2017, or $0.5 million more than the amount enacted for FY2016.[12] Taking into account unobligated balances from the previous year and funds received from the Public-Private Investment Program administered by the Treasury Department, SIGTARP's operating budget in FY2017 would total an estimated $46.5 million.

Relative to FY2016, the budget request calls for an increase of $0.6 million to maintain FY2016 operating levels and a decrease of $0.1 million from efficiency gains from a loss of eight FTE positions. The total number of FTEs at SIGTARP would not decline, as the eight lost positions would be "absorbed in SIGTARP's PPIP fund to more accurately reflect work performed and prior-year usage."

SIGTARP deploys its resources to prevent or uncover waste, fraud, and abuse in the use of the $475 billion in bailout funds that Congress ultimately authorized for the Troubled Asset Relief Program, which was a product of the EESA.[13] Of the requested appropriations for FY2017, $8.6 million would be used to perform audits and $32.5 million to conduct investigations.

SIGTARP operates as a temporary agency; it will cease to exist (or sunset) when no TARP program has any outstanding investments or commitments. Several mortgage programs remain active, including the Home Affordable Modification Program, which is projected to last at least until 2023.

H.R. 5485

The bill, as passed by the House, appropriates $41.2 million for SIGTARP in FY2017, or the same amount as the budget request.[14]

In its report on the bill, the House Appropriations Committee acknowledges that the initial operating expenses of SIGTARP were funded through no-year appropriations, but that those funds have decreased over time and could be used up in FY2017. As a result, H.R. 5485 would

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[12] Department of the Treasury, *Special Inspector for TARP: FY2017 President's Budget* (Washington, DC: February 9, 2016), available at https://www.treasury.gov/about/budget-performance/CJ17/11.%20SIGTARP%20FY%202017%20CJ.PDF.

[13] EESA authorized up to $700 billion for TARP, but that amount was reduced to $475 billion by P.L. 111-203.

[14] House Appropriations Committee, H.Rept. 114-624, p. 13.

provide supplementary discretionary appropriations so the office can maintain "vigorous oversight" of the outstanding TARP programs.[15]

S. 3067

The bill, as reported by the Senate Appropriations Committee, would also provide $41.2 million in appropriations for SIGTARP in FY2017.

Treasury Inspector General for Tax Administration

The Obama Administration is requesting $169.6 in appropriations for TIGTA in FY2017, or $2.4 million more than the amount enacted for FY2016.[16] Of the requested amount, $5.0 million would be available for obligation through the end of FY2018. TIGTA also receives funds for its operating budget from reimbursements for services it provides to other parties. Treasury estimates that these reimbursements could total $1.5 million in FY2017, giving TIGTA an operating budget of $171.1 million.

The requested increase in funding reflects an additional $2.4 million to maintain FY2016 operating levels and a decrease of $17,200 in efficiency savings from an anticipated reduction in the number of personnel investigations TIGTA will need to conduct.

TIGTA's funding goes to audits, investigations, and evaluations of IRS operations. In FY2017, according to the budget proposal, the Office of Audit would receive $66.0 million in appropriations and $600,000 in reimbursements, while the Office of Investigations would have received $103.6 million in appropriations and $900,000 in reimbursements.

According to Treasury budget documents, TIGTA's investigations and audits and other oversight activities generate a return on investment of $168 for each dollar spent on its operations. This return reflects both cost savings from changes to IRS's operations and additional revenue from the collection of taxes.[17]

H.R. 5485

The bill, as passed by the House, would give TIGTA $169.6 million in appropriated funds for FY2016, or the same as the budget request.[18] Of that amount, $5.0 million would be available for obligation through the end of FY2018.

In its report on the bill, the House Appropriations Committee expresses concern over the vulnerability of the IRS to a cyberattack. To address that concern, the committee directs TIGTA to submit a report to the two appropriations committees within six months of the enactment of H.R. 5485 that examines the following issues: (1) the consequences of past cyberattacks against the agency, (2) the steps taken or being considered by the IRS to prevent future attacks and lessen their effects, (3) IRS's current cybersecurity policies and procedures (including those ensuring the safe use of computers by IRS employees), and (4) the efforts made by the agency to inform employees and contractors about the risks of cyberattacks.

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[15] Ibid., p. 14.

[16] U.S. Department of the Treasury, *Treasury Inspector General for Tax Administration: FY2017 President's Budget* (Washington, DC: February 9, 2016), p. 3, available at https://www.treasury.gov/about/budget-performance/CJ17/12.%20TIGTA%20FY%202017%20CJ.PDF.

[17] Ibid., p. 5.

[18] House Appropriations Committee, H.Rept. 114-624, p. 13.

S. 3067

S. 3067, as reported by the Senate Appropriations Committee, would also provide TIGTA with $169.6 million in appropriations for FY2016.[19]

In its report on the bill, the committee notes that TIGTA has designated safeguarding the confidentiality of taxpayer information as the top concern facing the IRS in every year since FY2011. The committee is expecting to review reports during FY2017 on the measures the IRS is taking (or planning to take) to enhance the security of online taxpayer account information, the effectiveness of controls already in place to protect IRS information systems against cyberattacks, and the security of data transfers to third parties.

In addition, the committee urges TIGTA to investigate and issue a report on IRS's performance on two other issues. One is the IRS's use of appropriated funds in FY2016 to improve taxpayer services. The second issue is IRS's implementation of two key provisions of the ACA: the verification of taxpayers' compliance with the minimum essential health insurance coverage requirement and the verification of the authenticity of claims for the health insurance premium tax credit.

Community Development Financial Institutions Fund[20]

The Obama Administration is asking for $245.9 million in appropriations for CDFIF in FY2017, or $12.4 million more than the amount enacted for FY2016.[21] With the addition of projected reimbursements, user fees, and unobligated balances and recoveries from previous years, the budget request would give CDFIF an estimated operating budget of $257.9 million in FY2017.

Of the requested funding, $153.4 million is designated for the CDFI Program, $15.5 million for the Native American CDFI Assistance Program (NACA), $19.0 million for the Bank Enterprise Award Program, $22.0 million for the Healthy Food Financing Initiative (HFFI), $10.0 million for the Small Dollar Loan Program (SDLP), and $26.0 million for administrative expenses.

Relative to the enacted amounts for FY2016, the budget request calls for a decrease of $0.3 million for data collection and increases of $0.4 million to maintain current operating levels and $12.3 million for program expansions. The requested funding for those expansions would be allocated as follows: $2.3 million for administrative expenses related to allocating an estimated $74 million in awards under the Capital Magnet Fund (CMF) and to developing a modeling tool known as the Community Development Impact Measuring Estimator, and $10.0 million for the SDLP.

Although no direct appropriations are used for this purpose, the CDFIF has administered the New Markets Tax Credit (NMTC) since its creation in 2000. The credit is available through 2019 under current law. Taxpayers who make qualified equity investments in Community Development Entities may claim a credit equal to 39% of their investment; the credit is distributed in equal amounts over a period of seven years. It is awarded to investors through a competitive selection process. Congress authorized a total of $40 billion in NMTCs to be awarded through 2013; there

[19] Senate Appropriations Committee, S.Rept. 114-280, p. 17.

[20] For more information on the fund, see CRS Report R42770, *Community Development Financial Institutions (CDFI) Fund: Programs and Policy Issues*, by (name redacted)

[21] U.S. Department of the Treasury, *Community Development Financial Institutions Fund: FY 2017 President's Budget* (Washington, DC: February 9, 2016, available at https://www.treasury.gov/about/budget-performance/CJ17/13.%20CDFI%20FY%202017%20CJ.PDF.

was an annual limit of $3.5 billion in new credits from 2010 to 2013. In 2015, Congress extended the credit through 2019 and authorized $3.5 billion a year in new credits from 2014 to 2019 under the Protecting Americans from Tax Hikes Act of 2015 (P.L. 114-113).

The Small Business Jobs Act of 2010 (P.L. 111-240) established the CDFI Bond Guarantee Fund (BGF). Bonds issued under the program support CDFI lending in poor communities underserved by banks and other financial institutions by providing a source of long-term capital. Bonds issued by CDFIs (or their designees) are guaranteed by the Treasury Department, and the proceeds are used to capitalize new loans or refinance existing ones. The maturity of the bonds cannot exceed 30 years. Between FY2013 and FY2015, the Treasury Department issued seven bond guarantees with a combined face value of $852 million to qualified issuers, which in turn provided bond loans to 16 CDFIs. In FY2016, Treasury had the authority to issue up to $750 million in guarantees. The budget request would extend the BGF through FY2017, raise the limit for newly issued loan guarantees to $1 billion in FY2017, and reduce the minimum bond issue from $100 million to $25 million.[22]

H.R. 5485

As passed by the House, the bill would provide $250.0 million in appropriations for the CDFIF in FY2017, or $4.1 million more than the budget request.[23] Of the recommended funding, $184.0 million would go to technical and financial assistance grants for CDFIs, $16.0 million to NACA, $19.0 million to BEA, and $25.0 million for administrative expenses. There is no designated funding for HFFI or CMF. In addition, H.R. 5485 would create a new program for technical and financial assistance for low-income persons with disabilities with $6.0 million in funding in FY2017. Of the recommended appropriations for administrative costs, "no less than" $2.0 million is set aside to help CDFIs adapt their programs to better meet the needs for education, housing, transportation, and employment of disabled persons.

The bill would set a limit of $250 million on the new loan guarantees that could be issued in FY2017 under the CDFI Bond Guarantee Fund.

In its report on the bill, the committee encourages the CDFIF to use its Capacity Building Initiative to expand service in America Samoa, the Northern Mariana Islands, and other "U.S. insular areas."

The committee also directs the CDFIF to submit quarterly reports to the two appropriations committees during FY2017 on the status of efforts to establish an application pool among CDFIs interested in competing for technical and financial assistance grants to assist low-income disabled persons and the selection criteria used to award the grants. The reports should look at the number of awards, the amount of each award, the impact of the awards on the lives of disabled persons, and any recommendations on how to improve the program.

S. 3067

The bill, as reported by the Senate Finance Committee, would provide $233.5 million in appropriations for CDFIF in FY2017, or $12.4 million less than the budget request.[24] Of the recommended funding, $171.4 million is designated for technical and financial assistance grants

[22] Ibid., p. 23.

[23] House Appropriations Committee, H.Rept. 114-624, p. 18.

[24] Senate Appropriations Committee, S.Rept. 114-280, p. 24.

to CDFIs, $15.5 million for NACA, $23.0 million for BEA, and $23.6 million for administrative expenses. Funding for the HFFI would come from the recommended appropriations for financial and technical assistance grants for CDFIs.

S. 3067 would also allow the Treasury Department to guarantee up to $500 million in bonds under the BGF in FY2017.

In its report on S. 3067, the committee expresses a concern about the CDFIF's ability to accurately assess the results of its investments and a "lack of transparency" regarding the operation of the fund's programs. It also cites reports that some award recipients have not been held accountable for using their awards for approved purposes and at locations that differ from the recipients' approved applications. In the committee's view, issues like these continue to make it difficult to determine whether the programs are achieving their goals.

To address this difficulty, the committee sets aside $1.0 million of the recommended appropriations to develop analytical tools that provide better assessments of the results of CDFIF investments, improve the quality of program data, and allow the fund to allocate its resources more efficiently. The committee also directs the CDFIF to submit a report to both appropriations committees within 90 days of the enactment of S. 3067 that examines the steps it is taking (or has recently taken) to "better collect and evaluate performance-related data," to improve its ability to assess the effectiveness of its efforts to assist underserved populations (including rural and non-metropolitan communities), and to "better inform future decision-making."

Another issue addressed in the report is the flow of CDFI investments and loans to underserved low-income rural and non-metropolitan areas. The committee directs the fund to take into consideration the "unique conditions, challenges, and scale" of those areas when designing programs to promote economic revitalization and community development and awarding CDFI grants for financial and technical assistance. As the committee points out, 12 U.S.C. 4706(b) requires the CDFIF to assist a geographically diverse set of low-income communities, including those in rural and non-metropolitan areas.

Issue for Congress

The three proposals for funding the CDFIF in FY2017 raise the question of the future status of the Healthy Food Financing Initiative. While the Obama Administration has requested $22 million in appropriations for HFFI in FY2017, S. 3067 and H.R. 5485 recommend no separate funding for the program. The absence of designated funding raises the possibility that any funding for HFFI would have to come from another source, such as financial and technical assistance grants for CDFIs. The report on S. 3067 seems to endorse such an approach, but no such language is included in the report on H.R. 5485. It may be the case that, although many Members of Congress support the objectives of HFFI, they think there is a better way to achieve them than through the CDFIF.

Financial Crimes Enforcement Network

Under the Obama Administration's budget request, FinCEN would receive $115.0 million in appropriations in FY2017, or $2.0 million more than the amount enacted for FY2016.[25] With the addition of an estimated $40.0 million from reimbursements, recoveries, and unobligated

[25] U.S. Department of the Treasury, *Financial Crimes Enforcement Network: FY2017 President's Budget* (Washington, DC: February 9, 2016), p. 3, available at https://www.treasury.gov/about/budget-performance/CJ17/14.%20FinCEN%20FY%202017%20CJ.PDF.

balances from previous years, FinCEN's operating budget in FY2017 would total $155.0 million. The Administration has requested that $34.3 million of the appropriated funds remain available for obligation until September 30, 2019.

Relative to FY2016, the budget request contains increases of $1.8 million to maintain current levels of operation and $1.5 million to expand the use of contractors to support FinCEN's efforts to disrupt the financing of terrorist groups such as the Islamic State of Iraq and the Levant (ISIL), and a decrease of $1.3 million for efficiency gains and a loss of access to open-source commercial databases. In FY2016, contractors have helped process alerts on mandatory filings under the Bank Secrecy Act (BSA) and prepare reports for FinCEN customers in law enforcement, government intelligence agencies, and foreign intelligence agencies.

H.R. 5485

The bill, as passed by the House, would provide $119.3 million in appropriations for FinCEN in appropriations for FY2017, or $4.3 million more than the budget request.[26]

In its report on H.R. 5485, the committee acknowledges that the financial data gathered and analyzed by the agency serves as a "critical tool" for investigations into a variety of financial crimes, including money laundering, mortgage fraud, and terrorist financing.

The committee also encourages FinCEN to continue assisting investigations by domestic law enforcement agencies into human trafficking.

S. 3067

Under the bill, as reported by the Senate Appropriations Committee, FinCEN would receive $114.5 million in appropriations in FY2017, or $0.5 million less than the budget request.[27]

In its report on the bill, the committee commends FinCEN for its previous involvement in efforts by law enforcement agencies to combat cybercrime by monitoring financial flows through U.S. financial institutions subject to the reporting requirements of the BSA. The committee urges FinCEN to keep those institutions informed about the risk of attempts by criminals to launder the proceeds from the theft of online data through the U.S. financial system. To lower that risk, the committee recommends that FinCEN provide these institutions with a list of indicators of cybercrime they could refer to when filing suspicious activity reports (SARs) regarding possible cybercrimes.

Alcohol and Tobacco Tax and Trade Bureau

The Treasury Department is asking for $106.4 million in appropriations for ATTB in FY2017, or the same amount that was enacted for FY2016.[28] Including anticipated reimbursements for services provided by ATTB and a transfer of enforcement funds from the IRS through a proposed program integrity cap adjustment, the operating budget for the agency would total an estimated $118.3 million in FY2017.

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[26] House Appropriations Committee, H.Rept. 114-624, p. 14.

[27] Senate Appropriations Committee, S.Rept. 114-280, p. 20.

[28] U.S. Department of the Treasury, *Alcohol and Tobacco Tax and Trade Bureau: FY2017 President's Budget* (Washington, DC: February 9, 2016), available at https://www.treasury.gov/about/budget-performance/CJ17/15.%20TTB%20CJ.PDF.

Relative to the amount enacted for FY2016, the budget request calls for increases of $1.6 million to maintain current operating levels and $5.0 million to bolster the bureau's efforts to lower the gap between excise taxes owed and excise taxes paid by tobacco and alcohol beverage companies; the budget request also includes a decrease of $1.6 million from a deferral of planned enhancements to ATTB's alcohol beverage labeling program.[29]

Of the requested appropriations, $53.6 million would be used to collect federal excise taxes on alcohol, tobacco, firearms, and ammunition, and $52.9 million would be used to administer and enforce federal regulations governing the production and sale of alcohol and tobacco products.

H.R. 5485

As approved by the House, the bill would appropriate $111.4 million for ATTB in FY2017, or $5 million more than the budget request.[30] Of the recommended funding, $5 million is designated for efforts to accelerate the processing of formula and label applications for alcohol products, and another $5 million is set aside for enforcement of the provisions of the Federal Alcohol Administration Act (FAA, P.L. 74-401, as amended) concerning industry-wide trade practices.

In its report on H.R. 5485, the House Appropriations Committee maintains that the FAA provisions are "critical to ensuring a competitive, fair, and safe marketplace" for alcohol products. To ensure that the agency does more to enforce the provisions, the committee directs ATTB to submit a report to both appropriations committees within 60 days of the enactment of the bill on how the agency intends to use the additional funding to improve efforts to investigate and crack down on illegal activity.

The committee also expresses concern about continuing delays in the approval of new label and formula applications by makers of alcohol products. The additional $5 million in funding is intended to enable the ATTB to accelerate the processing of those applications. To ensure the agency is taking appropriate action, the committee directs the agency to submit a report to both appropriations committees within 60 days of the enactment of the bill explaining how it plans to achieve that objective.

S. 3067

The bill, as reported by the Senate Finance Committee, recommends that ATTB receive $111.4 million in appropriations for FY2017, or $5.0 million more than the budget request.[31]

In its report on S. 3067, the committee urges ATTB to devote "sufficient resources" to combating alcohol and tobacco tax evasion and enforcing tobacco laws.

In addition, the committee points out that a surge in the number of small breweries and wineries, coupled with "understaffing and outdated filing and processing procedures" in the agency's labeling program, have led to increasing delays in the approval of new label applications. The committee "encourages" ATTB to streamline the process for approving label applications through

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[29] This cost would be covered not by new appropriations but by a transfer of funds from the IRS through a program integrity cap adjustment to the IRS's budget for tax enforcement and compliance. The cap adjustment requires an amendment of Section 251 of the Balanced Budget and Emergency Deficit Control Act of Act 1985 (P.L. 99-177), as amended by the Budget Enforcement Act of 1990 (P.L. 101-508). For more details, see CRS Report R41901, *Statutory Budget Controls in Effect Between 1985 and 2002*, by (name redacted) ; and CRS Report R41965, *The Budget Control Act of 2011*, by (name redacted), (name redacted), and (name redacted) .

[30] House Appropriations Committee, H.Rept. 114-624, p. 17.

[31] Senate Appropriations Committee, S.Rept. 114-280, p. 22.

"strategic investments" in the resources and technologies needed to speed up the review of these applications.

As noted in the report on S. 3067, the added $5 million, relative to the budget request, is intended to bolster ATTB's enforcement of the provisions on fair trade practice in the FAA. These provisions relate to the production, distribution, and sale of alcohol products in the United States. To ensure that the agency uses these funds as intended, the committee directs ATTB to submit a report to both appropriations committees within 60 days of the enactment of the bill on how it plans to use the added funding to step up its enforcement of the fair trade regulations.

In addition, the committee directs the agency to publish "without delay" proposed rules on the labeling of wines to ensure the labels accurately reflect the established "terms" for American viticulture areas.

Bureau of the Fiscal Service

The President's budget request would give BFS $353.1 million in appropriations in FY2017, or $10.8 million less than the amount enacted for FY2016.[32] Of this amount, according to Treasury budget documents, $4.2 million is designated for initiatives to upgrade the bureau's information systems and would be available for obligation through the end of FY2019. The budget request also sets aside $19.8 million to support the agency's activities to implement the Digital Accountability and Transparency Act (DATA Act, P.L. 113-101); this money would be available for obligation through the end of FY2018. With the addition of $268.5 million in anticipated reimbursements for services provided by BFS, the agency's operating budget in FY2017 would total an estimated $621.5 million.

Relative to the FY2016 budget, the budget request calls for an increase of $6.0 million to maintain current operating levels and a decrease of $16.4 million for efficiency gains and program cuts (including a decrease of $10.8 million for implementation of the DATA Act in FY2017).

The budget request also includes funding for several permanent appropriations accounts related to BFS's administrative responsibilities or strategic goals. These amounts are $529.4 million to Federal Reserve Banks for accounting, reporting, collection, and payment programs; $138.3 million to Federal Reserve Banks for acting as a fiscal agent for the Treasury Department; $679.5 million to financial institutions that act as financial agents for the Treasury Department; and $1.1 million for losses resulting from government shipments.

The FY2017 budget request can also be broken down by function, of which there are six: (1) accounting and reporting, (2) collections, (3) debt collection, (4) payments, (5) retail securities service, and (6) wholesale securities services. The requested appropriations would be allocated as follows: $114.2 million to accounting and reporting; $40.2 million to collections; $115.1 to payments; $71.2 million to retail securities services; and $12.3 million to wholesale securities services.

Several legislative proposals are included in the budget request. One proposal is new and the others were included in the FY2016 BFS budget request.

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[32] U.S. Department of the Treasury, *Bureau of the Fiscal Service: FY 2017 President's Budget* (Washington, DC: February 9, 2016), available at https://www.treasury.gov/about/budget-performance/CJ17/16.%20Fiscal%20FY%202017%20CJ%20Final.pdf, http://www.treasury.gov/about/budget-performance/CJ16/15. FS FY 2016 CJ.pdf.

The new proposal would increase the number of federal programs and agencies that could access the National Directory of New Hire Data, which is a federal database of employment and unemployment insurance information maintained by the Office of Child Support Enforcement at the Department of Health and Human Services (HHS). Access to the database is tightly controlled by statute, and HHS employs a variety of measures to prevent the unauthorized use or disclosure of the information. At the moment, several programs are using the database to improve the implementation of new initiatives.

In addition, the FY2017 BFS budget request calls upon Congress to adopt the following legislative proposals from the FY2016 budget request:

- Increase the collection of delinquent state income tax debt by allowing Treasury to offset federal income tax refunds for out-of-state residents.
- Allow states to send notices of intent to offset federal tax refunds to collect state income tax obligations by first-class mail, rather than certified mail.
- Allow federal agencies to collect non-tax debt by garnishing without a court order the bank and other financial institution accounts of commercial entities with non-tax debt.
- Authorize Treasury to locate and recover unclaimed assets owed to the federal government and keep a portion of the amounts collected to pay for the cost of recovery.

H.R. 5485

As passed by the House, H.R. 5485 would provide $353.1 million in appropriations for BFS in FY2017, or the same amount as the budget request.[33] Of the recommended funding, $4.2 million would be available for obligation until September 30, 2019 to modernize the bureau's information systems.

In its report on the bill, the House Appropriations Committee notes that it includes funding for the USAspending.gov initiative. The committee also expects BFS to meet its transparency objectives for the initiative through implementation of the DATA Act. To ensure the agency acts on these objectives, the committee directs BFS to work with the OMB to publish all unclassified federal vendor contracts and grant awards on USAspending.gov. BFS is also required to publish the data online and submit a report to both appropriations committees within 90 days of the enactment of the bill on the status of its efforts to make the reporting of government spending data more transparent for ordinary citizens.

With regard to the DATA Act, the committee is concerned about the ability of BFS to meet the May 2017 deadline for reporting government-wide spending information.

The committee also directs BFS to issue within 60 days of the enactment of H.R. 5485 a report on payments from the Judgment Fund in FY2016. The report should provide the following details for each claim: (1) the names of all plaintiffs or claimants and their counsels, (2) the federal agency that submitted the claim, (3) a brief summary of the key facts for the claim, and (4) the amount paid on the claim, including attorney fees.

[33] House Appropriations Committee, H.Rept. 114-624, p. 15.

S. 3067

As reported by the Senate Appropriations Committee, the bill also recommends that BFS receive $353.1 million in appropriations for FY2017.[34] It is unclear if any of the recommended funding would be available for obligation beyond FY2017.

In its report on S. 3067, the committee notes that a key objective of the recommended appropriation is to ensure that "consistent, reliable, and searchable government-wide spending data" are accessible to the general public through the USAspending.gov initiative. To achieve that objective, the committee directs the agency to meet the May 17 deadline for implementing the reporting requirements of the DATA Act.

In addition, the committee expresses concern about lingering morale problems among BFS employees in the wake of the merger of the Bureau of Public Debt and the Financial Management Service, which commenced in 2012. These problems include uncertainty about job security. To address this concern, the committee directs BFS to prepare a "comprehensive consolidation plan" that identifies the jobs that will be maintained and submit it to both appropriations committees within 180 days of the enactment of the bill.

Treasury Forfeiture Fund (TFF)

The Treasury Department's budget request for FY2017 would cancel permanently $657.0 million in unobligated balances from the TFF.[35] This would come on top of a permanent reduction in those balances of $700.0 million enacted for FY2016.

The fund serves as the receipt account for the deposit of non-tax assets seized by participating federal bureaus: the IRS's Criminal Investigation unit, the U.S. Secret Service, the Bureau of Customs and Border Patrol, and the Bureau of Immigration and Customs Enforcement. The Treasury Executive Office for Asset Forfeiture (TEOAF) manages the fund. Money in the fund is used for two purposes: (1) to pay for the operating expenses of TEOAF and (2) to support the enforcement activities of the bureaus involved in the National Money Laundering Strategy, the Southwest Border Strategy, and government efforts to combat terrorist financing.

TEOAF estimates that $413.0 million will be deposited in the fund from asset forfeitures in FY2017. After accounting for earned interest, the restoration of reductions from sequestration and temporary rescissions, recoveries from previous years, and unobligated balances from previous years, the fund could total an estimated $1.6 billion at the end of FY2017, or nearly $4 billion less than the estimated amount at the end of FY2016. According to TEOAF, expenses and obligations for FY2017 will amount to $480.0 million. Combining those amounts with the Administration's proposed permanent rescission of $657.0 million would leave an unobligated balance in the fund of $398.6 million at the end of FY2017, or $241.5 million more than the estimated balance at the end of FY2016.

Treasury also proposes that the fund have a so-called Super Surplus of $100 million in FY2017. This surplus allows TEOAF to use unobligated balances to pay for law enforcement initiatives after enough money has been set aside to cover the fund's operating costs in the next fiscal year. Owing to a lack of funds, Treasury was unable to declare a Super Surplus in FY2015 and does not

[34] Senate Appropriations Committee, S.Rept. 114-280, p. 21.

[35] U.S. Department of the Treasury, *Treasury Forfeiture Fund: FY2017 President's Budget* (Washington, DC: February 9, 2016), available at https://www.treasury.gov/about/budget-performance/CJ17/24.%20TEOAF%20FY%202017%20CJ.PDF.

expect to do so in FY2016. If a surplus is declared in FY2017, Treasury would have to submit a plan to Congress explaining how it intends to use the surplus, under 31 U.S.C. § 9705.

H.R. 5485

As passed by the House, the bill would permanently decrease the unobligated balances in the fund by $753.6 million in FY2017, or $96.6 million more than the budget request.[36]

In its report on H.R. 5485, the House Appropriations Committee states that the resources in the fund should "neither augment agency funding nor circumvent the appropriations process." One way to prevent both outcomes is to reduce the unobligated balances in the fund.

In addition, the committee directs Treasury to submit to both appropriations committees, for each month in FY2017, a table showing the interest earned, forfeiture revenue collected, unobligated balances, recoveries and expenses to date. The table should include an estimate of the fund's expenses for the remainder of the fiscal year.

S. 3067

The bill, as reported by the Senate Finance Committee, recommends a rescission of $657.0 million, or the same as the budget request.[37] Of that amount, $328.0 million would be permanently rescinded.

Internal Revenue Service

The Obama Administration is requesting $12.280 billion in appropriations for the IRS in FY2017, or $1.045 billion more than the amount enacted for FY2016.[38] Of this amount, $2.469 billion would go to taxpayer services, $5.216 billion to enforcement (including a $231.3 million program integrity cap adjustment under Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177, BBEDCA)), $4.314 billion to operations support (including a $283.4 million program integrity cap adjustment), and $343.4 million to the Business Systems Modernization (BSM) program.

Several conditions would apply to these allocations. Of the requested funding for taxpayer services, at least $6.5 million is designated for the Tax Counseling for the Elderly program, at least $12.0 million for low-income taxpayer clinic grants, at least $15.0 million for Community Volunteer Income Tax Assistance program matching grants, and not less than $206.0 million for the operating expenses of the Taxpayer Advocate Service. In addition, $191.8 million of the funding for taxpayer services would be available through the end of FY2018.

Of the requested funding for enforcement, $54.9 million would be available through the end of FY2018, and at least $60.3 million would go to the Interagency Crime and Drug enforcement program.

And of the amount requested for operations support, $158.2 million would be available through the end of FY2018.

[36] House Appropriations Committee, H.Rept. 114-624, p. 15.

[37] Senate Appropriations Committee, S.Rept. 114-280, p. 21.

[38] U.S. Department of the Treasury, *Internal Revenue Service: FY 2017 President's Budget* (Washington, DC: February 9, 2016), available at https://www.treasury.gov/about/budget-performance/CJ17/02-06.%20IRS%20FY%202017%20CJ%201%2022%2016%20v2%20FINAL%20CLEAN.PDF.

With the addition of projected funds from reimbursements, user fees, recoveries and unobligated balances from previous years, transfers in and out, resources from other accounts, and offsetting collections, the operating budget for the IRS in FY2017 would total an estimated $13.245 billion in FY2017, or $870.5 million more than the estimated FY2016 operating budget.

Relative to IRS's enacted appropriations for FY2016, the budget request calls for increases of $170.3 million to maintain current operating levels and $878.5 million to expand programs aimed at improving taxpayer service and compliance, increasing the efficiency of IRS operations, and bolstering the agency's cybersecurity to prevent taxpayer identity theft; the budget request also calls for a decrease of $3.8 million from a cost savings stemming from increases in e-filing levels. Nearly 59% of the requested amount for program increases (or $514.7 million) would come from the proposed integrity program cap increases.

These increases can be fully implemented only if the BBEDCA is amended to lift the discretionary budget limits for IRS spending. The act created a mechanism for raising spending allocations among federal programs that generate a positive return on investment. Increases in those allocations are known as program integrity cap adjustments. According to the FY2017 budget request, the adjustments would give the IRS an additional $231.3 million for tax enforcement and an added $283.4 million for operations support. (As noted earlier, $5 million of the cap adjustment for enforcement would be transferred to ATTB to pay for new enforcement initiatives in FY2017.) The IRS estimates that the proposed new investments in enforcement programs would result in a return equal to $5.6 of additional revenue for each additional dollar $1.0 of investment when the needed adjustments in enforcement are fully implemented in FY2019. Better yet, according to IRS, the new initiatives to strengthen cybersecurity and prevent taxpayer identity theft would yield an estimated return on investment of $12.3 to $1.0 by FY2019.

The budget request for the IRS includes a legislative proposal to extend the IRS's Streamlined Critical Pay (SCP) authority through the end of September 2021. Its authority to make new SCP appointments expired on September 30, 2013. According to Treasury budget documents, the IRS is likely to find it difficult to recruit and retain talented individuals (especially IT specialists) from the private sector if the SCP authority is not renewed by the end of FY2017.

Reducing the federal tax gap has been a high priority for the IRS for more than a decade. The gap is defined as the difference between the amount of federal income, excise, estate, and employment taxes owed in a year and the amount of those taxes paid in full and on time. According to the latest estimate by the IRS, the average annual gross gap totaled $458 billion from 2008 to 2010; after allowing for late payments and revenue collected through IRS enforcement activities, the average annual net gap for the period was an estimated $406 billion.[39] The gap has three components: underreporting of income, failure to file, and underpayment of the taxes owed. Underreporting accounted for 85% of the 2008-2010 gross tax gap, underpayment for 9%, and non-filing for 7%. According to the estimate, the gross voluntary compliance rate in the period was 81.7%; after allowing for late payments and IRS enforcement actions, the net compliance rate rose to 83.7%.

The budget request contains 24 legislative proposals, most of which are intended to reduce the tax gap. They can be grouped into three categories: (1) proposals to expand information reporting, (2) proposals to improve business taxpayer compliance, and (3) proposals to bolster tax administration. None can be implemented without congressional approval. According to an

[39] Department of the Treasury, Internal Revenue Service, *Tax Gap Revenue Estimates for Tax Years 2008-2010* (Washington, DC: April 2016), available at https://www.irs.gov/PUP/newsroom/tax%20gap%20estimates%20for%202008%20through%202010.pdf.

estimate by Treasury's Office of Tax Analysis, the proposals would increase revenue by $82.2 billion over 10 years. Among other things, the proposals would give the IRS the authority to:

- Expand the Taxpayer Identification Number matching program
- Allow the IRS to correct specific errors on tax returns
- Require paid tax preparers to have a minimum knowledge of the federal tax code
- Require all corporations and partnerships of a certain asset size and with more than 10 shareholders or 10 partners to file their returns electronically

H.R. 5485

As passed by the House, the bill would provide $10.999 billion in appropriations for the IRS in FY2017, or $236 million below the amount enacted for FY2016 and $1.281 billion below the budget request.[40] The recommended funding would be distributed as follows among the four appropriations accounts: (1) taxpayer services: $2.156 billion, (2) enforcement: $4.760 billion, (3) operations support: $3.502 billion, and (4) BSM: $290.0 million.

Like the law providing appropriations for the IRS in FY2016, H.R. 5485 includes an administrative provision (Section 115) that would give the IRS an additional $290 million. The funds would be available for obligation through the end of FY2018. They could be used for three purposes only: (1) to improve the level of customer service, (2) to prevent identity theft and refund fraud, and (3) to enhance the online security of taxpayer information. Before any of the money could be spent, the IRS would have to present the two appropriations committees with a spending plan that contains measures of progress for achieving those objectives.

H.R. 5485 would also continue an administrative provision (Section 101) from FY2016 that allows the IRS to transfer up to 5% of appropriated funds from one account to another with the advance approval of the appropriations committees.

Under the bill, the IRS would receive less in new appropriations (in current dollars) than it did in FY2008. In addition, H.R. 5485 would impose the following limits on the IRS's use of appropriated funds in FY2017:[41]

- No funds could be used to grant bonuses and awards to employees that do not consider the past conduct and tax compliance of the recipients.
- No funds could be used to hire former employees without considering their conduct while at the IRS and their compliance with tax laws.
- No funds could be used to give additional scrutiny to groups applying for tax-exempt status because of their "ideological beliefs."
- No funds could be used to target individuals for extra scrutiny for "exercising their First Amendment rights."
- No funds could be used for conferences that do not conform to TIGTA's recommendations for such events.
- No funds could be used to produce videos that have not been reviewed for their cost, topics, tone, or purpose and certified to be "appropriate."

[40] House Appropriations Committee, H.Rept. 114-624, p. 19.

[41] The same set of limits was included in the bill to fund the Treasury Department (H.R. 2995) in FY2016 reported by the House Appropriations Committee.

- No funds could be used to implement new regulations regarding the criteria used to determine whether organizations qualify for tax-exempt status under Section 501(c)(4) of the Internal Revenue Code.
- No funds could be transferred to the IRS from the Department of Health and Human Services to implement the ACA.
- No funds could be used to implement the individual mandate under the ACA.
- No funds could be used in ways that "violate the confidentiality of tax returns."
- No funds could be used to design pre-filled or pre-populated individual tax returns.

Taxpayer Services

H.R. 5485 would provide $2.156 billion for taxpayer services in FY2017, or the same amount that was enacted for FY2016 but $249.8 million less than the budget request.[42] Of the recommended amount, $9.7 million would be set aside for the Tax Counseling for the Elderly program, $12.0 million for low-income taxpayer clinic grants, and $15.0 million (which would be available through the end of FY2018) for matching grants under the Community Volunteer Income Tax Assistance program.

In its report on the bill, the House Appropriations Committee expresses its concern over the ongoing problem of taxpayer identity theft and tax refund fraud. In its view, this problem has become "especially pernicious" in U.S. territories and possessions, where there are organized efforts to steal the taxpayer identification numbers of territorial residents to obtain tax credits and refunds from the U.S. government. To monitor the results of IRS's efforts to combat identity theft and related refund fraud and expedite the process for resolving cases involving these fraudulent acts, the committee directs the agency to submit a report to the two appropriations committees by June 17, 2017. The report should cover the period from 2010 to 2016 and provide the following details: (1) the number of taxpayers who had their tax return rejected because their Social Security or taxpayer identification numbers had been stolen by someone to commit tax fraud; (2) the average time required to resolve the problem and send a refund to taxpayers who were due one; (3) the number of cases involving stolen taxpayer identification numbers of residents of U.S. territories and possessions; and (4) the steps the IRS has taken (and plans to take) to expedite the resolution of identity theft cases, to prevent others from becoming victims, and to educate the public on the risk of identity theft. The report should also address the progress the IRS has made in implementing the recommendations for enhanced cybersecurity the Government Accountability Office (GAO) made in a report issued on March 28, 2016.[43]

The committee also opposes the development and use of pre-filled or "simple" tax returns. In its view, such a filing system would "change the relationship between taxpayers and their government," strain IRS resources, impose new compliance burdens on employers (especially small companies), and create a conflict of interest by forcing the IRS to act simultaneously as a tax collector and enforcer of tax compliance on the one hand, and as a tax preparer on the other hand. As a result, the committee "expects" the agency to refrain from working on a pilot project involving a simple tax return without first getting both the approval of the two appropriations committees and appropriations for that purpose.

[42] Ibid., p. 19.

[43] The report is available at http://www.gao.gov/products/GAO-16-398.

Another issue the committee addresses in its report on H.R. 5485 is the level of service (LOS) the IRS provides to taxpayers. Recent declines in the quality of toll-free telephone service and quantity of written correspondence have led some to question the IRS's priorities and how it allocates resources among them. The committee agrees with a recommendation by the GAO that the IRS periodically compare its level of telephone service with the best in the private sector to identify gaps between actual and desired performance.[44] To encourage the IRS to adopt such an approach, the committee directs the agency to submit a plan to both appropriations committees within six months of the enactment of the bill that sets forth specific goals for improving customer service and the strategies and needed resources to accomplish them.

H.R. 5485 also continues an administrative provision (Section 104) that makes funds available for "improved facilities and increased staffing to provide efficient and effective 1-800 number help live service for taxpayers."

Enforcement

H.R. 5485 would give the IRS $4.760 billion in appropriations for enforcement in FY2017, or $100.0 million less than the amount enacted for FY2016 and $456.3 million less than the budget request. Of the recommended funding, $60.3 million would be used to support IRS's involvement with the Interagency Crime and Drug Enforcement program. None of the funds could be used to implement the ACA.

In its report on the bill, the committee says that it "is looking forward" to receiving a report from the IRS on the regulation of paid tax preparers. In June 2014, responding to a federal court ruling that the IRS lacked the authority to regulate professional tax preparers, the agency initiated a voluntary regulatory program with many of the same requirements as the mandatory program the court rejected. To assess the cost-effectiveness of the voluntary program, the committee directed the IRS, in its report on bill (H.R. 2995) to fund the IRS in FY2016, to submit a report (after it had been reviewed by the GAO) to both appropriations committees within 120 days of the enactment of the bill. The report was supposed to evaluate the accuracy of returns prepared by participants in the voluntary program and the amount of any improper IRS payments resulting from those returns. It was also supposed to compare the costs of voluntary and mandatory regulatory programs and evaluate the likely impact on accuracy of a mandatory program. The committee is waiting for the report.

In addition, the committee directs the IRS to submit a report to both appropriations committees within 180 days of the enactment of H.R. 5485 on the rationale for its decision (expressed in TD 9610 and TD 9657) to require withholding on non-cash value insurance premiums, including payments by foreign insurance brokers.

Operations Support

Under H.R. 5485, the IRS would receive $3.502 billion for operations support in FY2017, or $136.0 million less than the amount enacted for FY2016 and $811.6 million below the budget request. None of the recommended funding may be used to implement the ACA.

In its report on the bill, the House Appropriations Committee "encourages" the IRS to continue to supply printed tax forms and instructions to "vulnerable populations." Among these groups, according to the committee, are residents of rural areas where Internet usage rates tend to be below the national average.

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[44] U.S. Government Accountability Office, *Tax Filing Season: 2014 Performance Highlights the Need to Better Manage Taxpayer Service and Future Risks* (Washington, DC: December 2014), p. 16.

The committee directs the IRS to submit quarterly reports during FY2017 to both appropriations committees that provide details on the obligations made by the agency in the previous quarter, the obligations it anticipates making during the remainder of the fiscal year, and the estimated number of full-time equivalent employees by department during the remainder of the year.

The IRS would also have to submit quarterly reports in FY2017 on the following information technology projects: IRS.gov, Returns Remittances Processing, EDAS/IPM, Information Returns and Document Matching, E-services, Taxpayer Advocate Service Integrated System, and administration of the ACA. Each report should provide certain details about each project, including total expenditures and performance schedule to date (by fiscal year), anticipated costs and performance schedule in the next three months, the expected cost of completing each project, when the project began, the expected date of completion, and the current and expected degree of functionality for the project. Both the Treasury Department (probably TIGTA) and the GAO would monitor IRS's management of the projects through annual reports to the appropriations committees.

In early 2016, the IRS suspended a pilot program known as Identity Protection Personal Identification Numbers (IP PINs). It was intended to prevent tax refund fraud through identity theft. Nonetheless, IP PINs were stolen and used to file fraudulent returns. The committee directs the IRS to submit a report on the steps it has taken to prevent the future theft of IP PINs, the number of people with stolen IP PINs, the amount of refunds issued as a result of the stolen IP PINs, and the assistance the IRS provided to the victims to file their returns, obtain any refunds, and secure their personal information.

Business Systems Modernization

H.R. 5485 would give the IRS $290 million for the BSM program, or the same amount that was enacted for FY2016 but $53.4 million less than the budget request.

In its report on bill, the House Appropriations Committee expresses support for the IRS's efforts to upgrade its business systems, especially the development of the CADE2 and Enterprise Case Management systems and the Return Review Program, which is intended to bolster the IRS's ability to detect, rectify, and prevent tax refund fraud.

At the same time, the committee remains concerned about the risk of unnecessary cost overruns and schedule delays. Consequently, it directs the IRS to continue submitting quarterly reports to the two appropriations committees on two BSM projects: CADE2 and MeF. Each report should address the cumulative expenditures on and performance schedule for each system to date, their cost and schedule for the previous three months and the anticipated cost and schedule for the next three months, and the total expected expenditure to complete each system. Each report should specify when each project began, its expected dates of completion, the percentage of planned work completed, and the project's current and expected operational capabilities.

In addition, the committee wants TIGTA and the GAO directly involved in monitoring IRS's management of the BSM program. It directs TIGTA to file semi-annual reports on IRS's IT investments to ensure they are "transparent" with regard to cost, schedule, and goals. The GAO is required to provide an annual report on the cost and schedule for every major IT project in FY2017, especially the projects addressed in the IRS's quarterly reports.

Under H.R. 5485, the IRS would also be required to submit quarterly reports during FY2017 to the two appropriations committees and TIGTA on the status of the agency's efforts to implement the audit trail requirements described in TIGTA's semi-annual report to Congress for April 1, 2015 to September 30, 2015.[45] The reports should cover both legacy and BSM systems, and a high priority should be given to the systems most vulnerable to taxpayer identity theft.

S. 3067

The bill, as reported by the Senate Finance Committee, would provide $11.235 billion in appropriations for the IRS in FY2017, or the same amount that was enacted for FY2016 but $1.045 billion less than the budget request.[46] S. 3067 also continues an administrative provision (Section 113) from FY2016 that gave the IRS $290 million to improve the level of customer service, strengthen the agency's ability to prevent taxpayer identity theft and refund fraud, and enhance its cybersecurity systems to better protect taxpayer information. Another administrative provision (Section 101) would allow the IRS to transfer up to 5% of appropriated funds for FY2017 from one account to another with the advance approval of the two appropriations committees.

In its report on S. 3067, the committee points to several reasons why it does not recommend an increase in IRS appropriations similar to the budget request. In its view, the agency "does not seem to have its priorities in order" in wanting to move most interactions with taxpayers to the IRS website. The committee also says that the IRS "continues to ignore the impact of its own behavior on the attitudes of taxpayers" and remains "out of touch with taxpayers and their concerns." Furthermore, it criticizes the agency for what it deems a willingness to "cut services to taxpayers in an effort to garner support (in Congress) for increased resources." And it claims that the IRS "continues to take actions that demonstrate its inability to be transparent about its available resources and flexibility," referring to the user fees it collects.

The committee also draws attention to the contribution of user fees to the IRS operating budget. Under current law, the IRS Commissioner has unlimited control over how the IRS uses the fees. In FY2016, according to the committee, the IRS is planning to devote more than half of the user fees it receives to acquiring information technology to implement the ACA. In order to gain more insight into the agency's plans for user fees in FY2017, the committee directs the IRS to submit a user fee spending plan within 60 days of the enactment of the bill. The plan should indicate to what extent user fees support the programs and investments funded through the IRS's four appropriations accounts.

S. 3067 would impose many of the same limits on the use of appropriated funds in FY2017 as H.R. 5485 would do:

- No funds may be used to "target" U.S. citizens for exercising their First Amendment rights.
- No funds may be used to target groups for additional regulatory scrutiny because of their "ideological beliefs."
- No funds may be used to give bonuses to current employees, or to hire former employees, without taking into consideration their conduct as IRS employees and their compliance with tax laws.
- No funds may be used for the purpose of violating the confidentiality of tax returns.

[45] Department of the Treasury, Treasury Inspector General for Tax Administration, *Semiannual Report to Congress: April 1, 2015 – September 30,* 2015, available at https://www.treasury.gov/tigta/semiannual/semiannual_sept2015.pdf.

[46] Senate Appropriations Committee, S.Rept. 114-280, p. 28.

- No funds may be used to develop or implement pre-populated tax returns.

Taxpayer Services

As reported by the committee, S. 3067 would provide $2.156 billion in appropriations for taxpayer services in FY2017, or the same as the amount enacted for FY2016 but $250 million less than the budget request. Of the recommended funding, at least $8.0 million would go to the Tax Counseling for the Elderly program; $12.0 million to Low-Income Tax Clinic grants; $15.0 million to the Volunteer Income Tax Assistance program as matching grants (to be made available through the end of FY2018); and $206.0 million to the Taxpayer Advocate Service, of which $5.0 million would be set aside for assisting victims of identity theft and refund fraud.

In its report on S. 3067, the committee addresses several concerns it has about the services the IRS offers or is planning to offer to taxpayers. One concern is the IRS's latest long-range plan for aligning the agency's capability to provide services with the expectations, needs, and preferences of taxpayers; the plan is known as Future State. A primary objective of the plan is to encourage more and more taxpayers to use online tools and support to get needed assistance. Some interested parties, including the National Taxpayer Advocate (NTA), have urged the IRS to get additional input from taxpayers and tax practitioners before moving ahead with the plan. In the committee's view, too few taxpayers might have the ability to access online information like their own tax accounts to make Future State a feasible alternative anytime soon to visits to Taxpayer Assistance Centers (TACs) and calls to the IRS toll-free phone lines. As a result, it directs the IRS to submit a report to the two appropriations committees, the Senate Finance Committee, and the House Ways and Means Committee no later than one year after online accounts are available for use by taxpayers. The report should be done in consultation with the NTA and should focus on current usage of and future plans for online accounts, including the number and percentage of taxpayers who tried to open an account and failed.

The committee also expresses concern about recent closures of TACs and the increasing number of centers staffed by a single person. Citing IRS estimates, it notes that the total number of taxpayers getting assistance at TACs is expected to drop by 16% from FY2015 to FY2016. Of particular concern to the committee is the impact of Future State on rural taxpayers. In its view, TAC closures tied to the initiative would make many of these taxpayers more dependent on paid preparers or leave them unable to obtain timely and reliable assistance with pre-filing or post-filling questions. To address this concern, the committee directs the IRS to hold a public hearing in any community where it plans to close a TAC and to notify both appropriations committees of its intention. In addition, the IRS is required to submit a report to the committees on its "strategic plan" for improving services for rural, elderly, disabled, minority, and low-income taxpayers, closing TACs, and providing alternative services under the Future State initiative.

Another issue addressed by the committee in its report on S. 3067 is the availability of adequate service for taxpayers residing in Alaska and Hawaii. The committee directs the IRS to ensure that each Taxpayer Advocate Service Center in the two states is staffed with a Collection Technical Advisor and an Examination Technical Advisor, in addition to other staff.

An administrative provision (Section 104) in S. 3067 specifies that "funds shall be available" to improve facilities and to increase the staff as needed to provide "sufficient and effective" toll-free telephone service with reduced wait times for taxpayers, especially those who are victims of tax crimes such as identity theft and refund fraud.

Enforcement

S. 3067, as reported by the committee, recommends that the IRS receive $4.860 billion in appropriations for enforcement activities in FY2017, or the same amount that was enacted for FY2016 and $125 million less than the budget request.

The committee raises several issues regarding IRS enforcement activities in its report on the bill. Perhaps the most pressing issue is taxpayer identity theft and related refund fraud and the steps being taken by the IRS to combat the problem. Such a problem arises when someone intentionally uses the personal identifying information of another person to file a falsified tax return with the intent of receiving a fraudulent refund. The scope of the problem has grown in the past few years: according to a study by the National Taxpayer Advocate, IRS's inventory of identity-theft cases at the end of FY2015 was 150% greater than the inventory at the end of FY2014.[47] In a bid to spur the IRS to do more to combat identity theft, the committee directs the agency to make it a top priority to develop stronger safeguards to prevent identity theft and faster ways to assist taxpayers who are the victims of such a crime, drawing upon the recommendations in recent reports by the GAO, TIGTA, and the NTA. The IRS is required to report to the committee within 90 days of the enactment of the bill on its plans for addressing the problem. In addition, the committee directs the IRS to assign each identity-theft case to a single contact person at the agency and to report back to the committee on the amount of time such an approach takes to resolve the case.

Another issue was the processing of applications to determine the federal employment tax status of workers under the SS-8 program. The committee maintains that staffing for the program has failed to keep pace with its growing workload in recent years. The classification of a worker as an independent contractor or employee has significant tax implications for employers, workers, and the IRS. At issue is whether an individual or an employer is responsible for paying Social Security, Medicare, and federal unemployment taxes and for withholding federal income taxes. In 1994, the IRS established the Determination of Worker Status Program to permit an employer or a worker to request an IRS determination of a worker's status as an employee or independent contractor; the program is now known as the SS-8 program. According to a 2013 TIGTA report, the inventory of cases and processing times increased from FY2009 to FY2012; more recent estimates are not available.[48] In January 2012, the IRS began using a new method for prescreening requests for worker status determinations that was designed to speed up the process. The committee directs the IRS to notify the House and Senate Appropriations Committees, the Ways and Means Committee, and the Senate Finance Committee before reducing or reassigning staff for the program.

Operations Support

S. 3067 would give the IRS $3.638 billion in appropriations for operations support in FY2017, or the same as the amount enacted for FY2016 but $393 million less than the budget request.

According to a recent GAO report, 97% of IRS's planned 23 major IT investments in FY2017 ($1.8 billion) will be funded through appropriations: 81% from operations support and 16% from BSM.[49] To monitor the results and costs of these investments and the steps taken by the IRS to

[47] Taxpayer Advocate Service, *2015 Annual Report to Congress: Volume 1*, "Most Serious Problems Facing Taxpayers: Identity Theft" (Washington, DC: January 6, 2015), p. 182.

[48] Department of the Treasury, Treasury Inspector General for Tax Administration, *Employers Do Not Always Follow Internal Revenue Service Worker Determination Rulings* (Washington, DC: June 14, 2013), p. 7.

[49] U.S. Government Accountability Office, *IRS 2017 Budget: IRS Could Improve Presentation of Budget Data in Its Congressional Justification,* GAO-16-695 (Washington, DC: July 2016), p. 18.

protect taxpayer information from cyberattacks, the committee directs the IRS to provide both appropriations committees and the GAO with quarterly reports on the following IT projects: IRS.gov, Returns and Remittance Processing, EDAS/IPM, Information Returns and Document matching, E-services, Taxpayer Advocate Service Integrated System, implementation of the ACA, and "other projects associated with significant changes in the law." Each report should discuss the cumulative expenditures and performance schedules for each project in previous fiscal years, its cost and schedule for the previous three months, and the expected cost and schedule for the next three months. The report should also explain when the project began, its expected date of completion, the percentage of the planned work already completed, the current usefulness of the technology, and any anticipated changes in its schedule for completion.

As an added layer of scrutiny, the committee directs the Treasury Department to review IRS's IT investments every six months to "ensure the cost, schedule, and scope goals are transparent." The GAO is required to submit an annual report to both appropriations committees on the cost and results of all major IRS IT projects in FY2017, especially those addressed in IRS's quarterly reports.

Business Systems Modernization

S. 3067 recommends that the BSM program receive $290.0 million in appropriations in FY2017, or the same amount that was enacted for FY2016 but $53.4 million less than the budget request.

In its report on the bill, the committee again expresses concern about the ability of the IRS to prevent cyber-criminals from gaining access to sensitive taxpayer information and use it to file falsified tax returns.[50] This concern sits atop a long-standing concern about the risk of cost overruns and delays in getting the desired results from BSM projects.

Exercising its oversight authority, the committee directs the IRS to continue to submit quarterly reports in FY2017 on the cost and performance schedules for two projects: CADE2 and MeF. The reports should note when the projects began, their expected dates of completion, the percentage of planned work completed, changes in schedule, and risks unrelated to funding amounts. Both the Treasury Department and the GAO would have to submit reports (the former semi-annually and the latter annually) on the cost and results of the two projects so far.

Issues for Congress

The proposals from the Obama Administration, the House, and the Senate Appropriations Committee for funding the IRS in FY2017 raise a number of significant policy issues, three of which are discussed here:

- How much money does the IRS need to achieve its strategic goals and effectively and efficiently meet its statutory responsibilities?
- Is there a sound rationale for the Administration's proposed increase in the program integrity cap under the BBEDCA for the IRS to provide additional funding for enforcement and operations support in FY2017 and succeeding years?
- Should Congress consider the return on investment from IRS enforcement activities when deciding how much to appropriate for IRS operations?

[50] The committee cites the recent security breaches involving the Get Transcript and IP PIN applications as evidence of the difficulties the IRS faces in enhancing its cybersecurity.

Appropriate Size of the IRS Budget

For the second year in a row, the Obama Administration is asking Congress to increase the size of the IRS budget by more than $1 billion from the amount enacted for the previous year. It contends that a substantial expansion of the resources available to the IRS is essential if the agency is to continue to meet its legal responsibilities, achieve its main strategic goals,[51] and handle its mounting work load. The requested increases in appropriations were $1.986 billion for FY2016 and $1.045 billion for FY2017.

Supporters of a much larger IRS budget point to several recent trends in resources, performance, and workload to support their argument:

- Real enacted IRS appropriations (in 2015 dollars) were $1.949 billion (or 14.8%) lower in FY2016 than there were in FY2010.
- IRS's full-time equivalent workforce directly funded through appropriations decreased by 12,774 FTEs (or 13.1%) from FY2010 to FY2016.
- The vast share of that decrease (95.3%) was due to a reduction in FTE staff engaged in enforcement activities; enforcement staff was 12,077 FTE employees (or 23.8%) lower in FY2016 than it was in FY2010.
- IRS's workforce is aging, as most employees lost through attrition are not being replaced by younger workers.
- In FY2010, 74% of taxpayer calls to the IRS for live assistance were answered; the average wait was 10.8 minutes. By contrast, 38.1% of calls were answered in FY2015, with an average wait of 30.5 minutes. The IRS expects the level of telephone service to rise to 47%, and the average wait to drop to 25.8 minutes in FY2016.
- During the 2015 and 2016 filing seasons, new internal IRS rules restricted IRS customer assistance employees to answering basic tax questions, and TACs were not allowed to prepare tax returns for low-income, disabled, and elderly taxpayers seeking assistance.
- The IRS conducted fewer audits of individual and large corporate tax returns in FY2015 relative to FY2010. For individual audits, the decrease was 22.3%, and for corporations with assets of $10 million or more, it was 27.4%.
- The overage rate for IRS correspondence with taxpayers more than doubled from FY2010 (20.3% of all correspondence received) to FY2015 (49.4%). According to IRS internal rules, a correspondence is considered overage if it is not resolved within 45 days of the IRS receiving it.
- From 2010 to 2016, the number of individual tax returns processed by the IRS (through July of each year) rose nearly 7 million (or 5.0%).
- The IRS has had to take on two new major responsibilities since FY2010: implementing the ACA and FATCA.

[51] According to FY2017 Treasury budget documents, there are three such goals: (1) to provide "high quality and timely service to reduce taxpayer burden and encourage voluntary compliance," (2) to enforce tax laws to "ensure compliance with tax responsibilities and combat fraud," and (3) to invest in the development of a "highly talented and diverse workforce" and the institutional capabilities needed to achieve the IRS's mission and "deliver high performance for taxpayers and stakeholders."

- Cases involving taxpayer identity theft and refund fraud have increased considerably in both volume and the amount of improper payments since FY2010.

A primary concern of proponents of a larger IRS budget is that continued declines or slow or no growth in the resources available to the IRS would further erode the effectiveness of taxpayer services, delay or cancel the implementation of critical new business systems, increase levels of tax evasion and identity theft, make the IRS more vulnerable to cyberattacks aimed at stealing taxpayer information, and undermine taxpayer confidence in the fairness and efficacy of the federal income tax system.

Opponents of substantial increases in the IRS budget (or proponents of additional cuts) generally do not dispute the evidence cited by proponents. Rather, they argue that increases in the IRS budget cannot be seriously considered until the IRS demonstrates repeatedly over an extended period that it is able to perform certain "critical" tasks. One is to establish sound spending priorities and pursue them effectively with available resources. A second task is to take advantage of opportunities for greater program efficiencies and cost savings. Another task is to regain the trust of taxpayers, which was deeply shaken by allegations that surfaced in 2013 that the IRS discriminated against politically conservative social welfare organizations in evaluating their applications for tax-exempt status under Section 501(c)(4).

Critics also maintain that with careful planning and appropriate allocations of the hundreds of millions of dollars in user fees the IRS collects each year, it should be able to meet its mandated responsibilities and make significant progress in achieving its strategic objectives, while making the changes required to satisfy the demands of critics.

The arguments for and against an expansion of the IRS's budget raise at least two questions for lawmakers:

- Given the strategic goals, statutory responsibilities, and mounting workload of the IRS, what is the appropriate size of the IRS budget and how should it be allocated among the IRS's various functions?
- Is the current IRS budget sufficient to allow it to (1) reduce the federal tax gap, (2) uphold the integrity of a tax system that relies on voluntary compliance to raise needed revenue, (3) provide the services taxpayers require to meet their tax obligations, (4) keep individuals from hacking into the IRS taxpayer databases to steal personal information and file fraudulent tax returns, (5) recruit and train younger workers to replace employees who retire or resign for other reasons, and (6) develop and install the information systems needed to increase the range of taxpayer services offered online?

Increased Funding for Enforcement and Operations Support through Program Integrity Cap Adjustments

The Budget Control Act of 2011 (BCA, P.L. 112-25) amended the BBEDCA by reinstating limits on discretionary budget authority that lapsed at the end of FY2002. The current discretionary caps apply from FY2012 to FY2021. Section 251(b) (2) of the BBEDCA authorizes certain adjustments to the spending caps after the enactment of appropriations. Under the BCA, the limits on discretionary spending can be adjusted for six reasons:

- Changes in budget concepts and definitions,
- Appropriations designated for requirements for emergencies,

- Appropriations designated for Overseas Contingency Operations/Global War on Terrorism,
- Appropriations for continuing disability reviews and redeterminations,
- Appropriations for controlling health care fraud and abuse,
- Appropriations for disaster relief.

The adjustments for health care fraud and abuse and for disability reviews and eligibility redeterminations allow for additional appropriations to carry out program integrity initiatives, which are activities intended to bring about a net reduction in federal spending, in part through a reduction in improper benefit payments. In each case, the adjustment must exceed a specified minimum amount of appropriations for those activities and cannot exceed a specified maximum amount. Those amounts vary from year to year between FY2012 and FY2021. This requirement is intended to ensure that the additional funding does not supplant other federal spending on these activities or is not diverted to other purposes.

The Obama Administration is asking Congress to provide added funding for IRS enforcement activities and operations support in FY2017 through a program integrity cap adjustment for collecting delinquent taxes (and related penalties and interest charges) and reducing improper refund payments.[52] The request would amend the BCA to allow for a series of adjustments to the discretionary spending limits for new investments by the IRS from FY2017 to FY2026. In FY2017, the adjustment would total $514.7 million in budget authority and outlays. According to an IRS estimate, the proposed new investments over that decade would raise $64 billion in additional revenue at a cost of $18 billion, yielding a net savings of $46 billion.

Every budget request for the IRS since FY2006 has included a program integrity cap adjustment for enforcement funding. Congress enacted such a proposal for FY2006, FY2009, and FY2010 only. Enacted cuts in IRS appropriations from FY2011 to FY2015 did not include any of the requested program integrity cap adjustments.

In reviewing future IRS budget requests, Congress may want to consider the advantages and disadvantages of paying for increases in IRS's enforcement activities through such an adjustment.

Revenue Effects of IRS Appropriations

Under current federal budget scorekeeping rules, any budgetary savings (such as increased revenue) from additional appropriations for government administrative programs is not counted as an offset to that spending. This rule goes back to the scorekeeping guidelines included in the conference report for the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) and reaffirmed in the conference report for the Balanced Budget Act of 1997 (P.L. 105-33). The guidelines are intended to ensure the consistent treatment of the budgetary effects of government programs over time. They can be changed only with the unanimous consent of all budget scorekeepers: the House and Senate Budget Committees, the Congressional Budget Office (CBO), and the Office of Management and Budget.

For the IRS, this convention means that even though some of its activities raise additional revenue, the additional receipts cannot be used under congressional pay-go rules to finance tax cuts or spending increases. For example, a proposed decrease in IRS funding of 50% from the amount enacted in FY2016 would be scored as a reduction in the baseline federal budget deficit of approximately $5.4 billion in FY2016; by contrast, a proposed 50% increase in FY2016 funding would be treated as an increase in the federal budget deficit of the same amount. In both

[52] Department of the Treasury, *Internal Revenue Service: FY2017 President's Budget*, p. 16.

cases, even if the proposed changes would affect IRS's enforcement activities only, the increase or decrease in receipts would not alter the projected federal budget deficit in FY2017.

This limitation also applies to the budgetary impact of other government compliance activities, such as measures to prevent improper Medicare payments or improper claims for federal student loans. A key justification for the limitation is that it deters federal agencies with enforcement budgets from shifting resources to collection functions to justify requests for larger budgets for their programs.[53]

By contrast, estimates of the revenue effects of legislative proposals to alter tax laws sometimes reflect both the indirect and dynamic revenue effects. H.Res. 5 (Adopting Rules for the 114th Congress) requires the CBO and the Joint Committee on Taxation (JCT) to incorporate the macroeconomic effects of major legislation in their official estimates of the cost effect used to enforce the budget resolution and other House rules. Major legislation is defined as legislation with a "gross budgetary effect" equal to or greater than 0.25% of the projected GDP for the fiscal year to which the budget resolution applies.

Some argue that the current practice of disregarding the revenue effects of changes in IRS funding leads Congress to appropriate less than it otherwise would, especially for enforcement activities.[54] A change in IRS funding may affect taxpayer compliance in ways that generate an indirect revenue effect. This effect is not scored under current scorekeeping rules. Yet the JCT does score the indirect revenue effects of proposed tax code changes.

In deciding how much to appropriate for IRS operations, Congress may wish to take into account the net contribution of IRS's administration of the federal tax code to the federal budget.

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[53] Eric Toder, *Reducing the Tax Gap: The Illusion of Pain-Free Deficit Reduction* (Washington, DC: Urban Institute and the Urban-Brookings Tax Policy Center, July 3, 2007), available at http://www.urban.org/research/publication/reducing-tax-gap-illusion-pain-free-deficit-reduction.

[54] Patrick Driessen, "Scoring Rules Double-Stacked Against IRS Funding," *Tax Notes*, March 30, 2015.