Bipartisan Budget Act of 2015

Section-by-Section Summary

Sec. 1. Short title; Table of Contents.

Subsection 1(a) provides that the short title of this Division is the ‘‘Bipartisan Budget Act of 2015’’. Subsection 1(b) sets forth the table of contents for the Act.

Title I – Budget Enforcement

Sec. 101. Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985.

The limits on discretionary spending are established in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA). The limits are subdivided in each fiscal year through 2021 into two categories: revised security category and revised nonsecurity category. The revised security category is defined to be the National Defense budget function (Function 050) which includes funding for the Department of Defense, the nuclear weapons-related work of the Department of Energy, intelligence-related activities, and the national security elements of the Departments of Commerce, Justice, Homeland Security, and several independent agencies. The Department of Defense (including the intelligence programs) usually receives over 95 percent of the budget authority in this function. The revised nonsecurity category comprises discretionary spending not contained in the revised security category. Subsection 101(a) amends section 251(c) of BBEDCA to increase the limits on discretionary spending for fiscal years 2016 and 2017. The revised levels for each category are shown in the table.

(Millions of $BA)	FY 2016		FY 2017	
	Revised Security	**Revised Non-Security**	**Revised Security**	**Revised Non-Security**
Current Law	$523,091	$493,491	$536,068	$503,531
Revised Cap	$548,091	$518,491	$551,068	$518,531

In addition to the limits on discretionary spending, section 251A of BBEDCA also includes a sequester of direct spending, the size of which interacts with the discretionary spending levels.

Subsection 101(b) provides for the implementation of the sequester of direct spending as if the amendments in subsection 101(a) had not been made. The President is required by law to implement the sequester of direct spending ordered on February 2, 2015 and the one in the Sequestration Preview Report for Fiscal Year 2017 as if the amendments in subsection 101(a) had not been made.

Sec. 1007. FCC Auction Authority.

Extends expiring FCC auction authority from 2022 to 2025 for the specific spectrum identified under Section 1004.

Sec. 1008. Report to Congress on Rules Changes Relating to 3550-3650 MHz Spectrum.

Requires a report to Congress on the efficacy of the Spectrum Access System rules being implemented in the 3650-3750 MHz band to enable sharing between licensed, unlicensed, and government incumbents.

Title XI – Revenue Provisions Related to Tax Compliance

Sec. 1101. Partnership Audits and Adjustments.

Three different regimes currently exist for auditing partnerships. For partnerships with 10 or fewer partners, the IRS generally applies the audit procedures for individual taxpayers, auditing the partnership and each partner separately. For most large partnerships with more than 10 partners, the IRS conducts a single administrative proceeding (under the so-called TEFRA rules, which were adopted as part of the Tax Equity and Fiscal Responsibility Act of 1982) to resolve audit issues regarding partnership items that are more appropriately determined at the partnership level than at the partner level. Under the TEFRA rules, once the audit is completed and the resulting adjustments are determined, the IRS must recalculate the tax liability of each partner in the partnership for the particular audit year.

A third audit regime applies to partnerships with 100 or more partners that elect to be treated as Electing Large Partnerships (ELPs) for reporting and audit purposes. A distinguishing feature of the ELP audit rules is that unlike the TEFRA partnership audit rules, partnership adjustments generally flow through to the partners for the year in which the adjustment takes effect, rather than the year under audit. As a result, the current-year partners' share of current-year partnership items of income, gains, losses, deductions, or credits are adjusted to reflect partnership adjustments relating to a prior-year audit that take effect in the current year. The adjustments generally do not affect prior-year returns of any partners (except in the case of changes to any partner's distributive share).

Under the provision, the current TEFRA and ELP rules would be repealed, and the partnership audit rules would be streamlined into a single set of rules for auditing partnerships and their partners at the partnership level. Similar to the current TEFRA rule excluding small partnerships, the provision would permit partnerships with 100 or fewer qualifying partners to opt out of the new rules, in which case the partnership and partners would be audited under the general rules applicable to individual taxpayers.

Under the streamlined audit approach, the IRS would examine the partnership's items of income, gain, loss, deduction, credit and partners' distributive shares for a particular year of the partnership (the "reviewed year"). Any adjustments would be taken into account by the partnership (not the individual partners) in the year that the audit or any judicial review is completed (the "adjustment year"). Partners would not be subject to joint and several liability for any liability determined at the partnership level. Partnerships would have the option of demonstrating that the adjustment would be lower if it were based on certain partner-level information from the reviewed year rather than imputed amounts determined solely on the partnership's information in such year. This information could include amended returns of partners opting to file, the tax rates applicable to specific types of partners (e.g., individuals, corporations, tax-exempt organizations), and the type of income subject to the adjustment (e.g., ordinary income, dividends, capital gains). As an alternative to taking the adjustment into account at the partnership level, a partnership would be permitted to issue adjusted information returns (i.e., adjusted Form K-1s) to the reviewed year partners, in which case those partners would take the adjustment into account on their individual returns in the adjustment year through a simplified amended-return process. As a result, partnerships generally would no longer issue amended Form K-1s after the partnership return is filed, but instead would use the adjusted Form K-1 process.

A partnership would also have the option of initiating an adjustment for a reviewed year, such as when it believes additional payment is due or an overpayment was made, with the adjustment taken into account in the adjustment year. The partnership generally would be permitted to take the adjustment into account at the partnership level or issue adjusted information returns to each reviewed-year partner. The provision would be delayed for two years, so that it applies to returns filed for partnership tax years beginning after 2017.

Sec. 1102. Partnership Interests Created By Gift.

A partnership generally is an unincorporated organization in which the parties (typically referred to as partners) have joined together with the purpose of conducting an active trade or business. A person also may be recognized as a partner if capital is a material income-producing factor, whether such interest was obtained by purchase or by gift. Congress intended this rule to clarify that a family member who receives via gift a capital interest in a partnership, where capital is a material income-producing factor, should be respected as a partner in the partnership and should be taxed on the income from that partnership. Some taxpayers have argued that this family partnership rule provides an alternative test for determining who is a partner without regard to how the term is generally defined in the partnership tax rules. Thus, they assert that if a partner holds a capital interest in a partnership, the partnership must be respected regardless of whether the parties have demonstrated that they joined together to conduct an active trade or business.

The provision would clarify that Congress did not intend for the family partnership rules to provide an alternative test for whether a person is a partner in a partnership. The determination of whether the owner of a capital interest is a partner would be made under the generally applicable rules defining a partnership and a partner. In addition, the family partnership rules would be clarified to provide that a person is treated as a partner in a partnership in which capital is a material income-producing factor whether such interest was obtained by purchase or gift and regardless of whether such interest was acquired from a