

# THE BUDGET ENFORCEMENT ACT: HAS ORWELL'S VISION OF THE FUTURE COME TRUE?

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## Introduction

**F**OR the past twelve years we have been told that the federal budget deficit was the root cause of every economic (and a few not so economic) malady that has befallen this country. When the stock market crashed we were told that the deficit was to blame. When interest rates went up it was the deficit's fault. Declining productivity, lower SAT scores, a bad season by the Washington Redskins? Again and again the deficit was said to be the villain.

However, since the enactment of the Budget Enforcement Act<sup>1</sup> (BEA) last October, we have been told something very different—the deficit is not the problem, the deficit never has been the problem, and we are wrong to think that the deficit ever was the problem. The problem on which we are now being told to focus is federal spending. Keeping the lid on federal spending is the economic philosopher's stone; do that and all economic ills will either stop or never occur.

## BEA vs GRH

This change may not be immediately apparent at first glance. BEA maintains the Gramm-Rudman-Hollings (GRH)<sup>2</sup> concept of maximum deficit amounts and the across-the-board spending cuts ("sequesters") that are supposed to occur if the president and Congress do not reduce the deficit to the maximum. However, BEA so deemphasizes the deficit maximums that there is literally no chance that this type of sequester can occur as part of the fiscal 1991, 1992, and 1993 budget debates. There is also only a small chance that an "excess deficit" sequester will occur as part of the fiscal 1994 and 1995 budget debates.<sup>3</sup>

Instead of reducing the deficit, BEA is concerned with limiting enacted in-

creases in spending and decreases in revenues. The two major enforcement mechanisms are limits on appropriations and a pay-as-you-go ("PAYGO") system for entitlements and taxes.

*Appropriations Caps.* For fiscal 1991–1993, all appropriations have been divided into three categories—defense, international, and domestic—and limits or "caps" have been set for each one. For fiscal 1994 and 1995, the three categories will be combined into a single category. As revised in the Bush fiscal 1992 budget,<sup>4</sup> the caps are shown in Table 1.

If legislation is enacted that would cause spending in any appropriations category for any year to exceed ("breach") the cap for that category, a new type of sequester will occur that will only cut programs in that category by whatever percentage is needed to reach the cap. Unlike the situation that existed under GRH when a sequester could only be triggered once a year on October 15, there are three BEA appropriations sequesters and they can be triggered throughout the year.

*Pay-As-You-Go.* The PAYGO system was created to make it difficult for the White House and Congress to enact legislation that would increase the amount spent on entitlements or reduce the amount of revenue collected under existing law. Any proposed spending increases above or revenue reductions below the baseline (the amount that would be spent or raised if current law remained unchanged) must now be offset with either other entitlement reductions or revenue increases, so that there is no net impact on the deficit. If the deficit increase is not offset, a sequester of only eligible entitlement programs will occur to reduce the deficit accordingly.<sup>5</sup>

These budget process changes mean that the outlook for tax legislation has been significantly altered by BEA in three main ways:

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TABLE 1  
BEA APPROPRIATIONS CAPS  
(IN BILLIONS OF DOLLARS)

	1991	1992	1993	1994	1995
<b>Defense</b>					
Budget Authority .....	289.9	291.4	291.5	---	---
Outlays .....	298.9	295.8	292.5	---	---
<b>International</b>					
Budget Authority .....	20.1	20.9	21.6	---	---
Outlays .....	19.2	19.2	19.8	---	---
<b>Domestic</b>					
Budget Authority .....	182.9	198.4	205.8	---	---
Outlays .....	199.9	211.1	223.2	---	---
<b>TOTAL</b>					
Budget Authority .....	---	---	---	518.1	525.0
Outlays .....	---	---	---	536.5	542.5

1. *Deficit Reduction to a Fixed Target Is No Longer the Prime Goal.* The GRH budget process required that Congress and the president reduce the deficit to the allowed maximum or face the possibility of a sequester. If, as happened last year, the deficit outlook worsened because of a weakening economy, the pressure to produce a deficit reduction bill increased.

But there is no fixed deficit target under BEA. The projected deficit can rise without forcing the White House and Congress to adopt additional deficit reduction legislation as long as economic and technical revisions are the reason for the increase. This eliminates the pressure to cut spending and increase taxes for deficit reduction purposes.

2. *Appropriations Increases Will be Extremely Limited.* GRH allowed increases in appropriations to be paid for by increases in revenues as long as there was no net impact on the deficit. This is not possible under BEA, which caps spending and does not allow spending increases above the limits to be enacted regardless of whether revenues are provided to pay for them. In addition, increases above the cap in one category cannot be offset by equal cuts in any of the other categories.

3. *Pay-As-You-Go.* Under GRH, legislation that reduced revenues did not have to be paid for with equal revenue increases. By contrast, under the new pay-as-you-go requirements, any legislation

that would cause reductions in revenues or increases in entitlements above the baseline must include offsetting revenue increases or entitlement reductions. If the offset is not enacted, a new sequester of just mandatory programs will occur to provide the offset automatically. This new requirement will obviously increase the pressure to provide increased revenue when tax cuts are under consideration and to cut entitlements when benefit increases are proposed.

### George Orwell Would Have Been Proud

The change from the GRH deficit-based system to the BEA spending limitation is obviously significant as far as the legislative outlook is concerned. But what may well be more important is the way that it was implemented; there was no formal or informal explanation of the changes when the budget process was revised. In announcing last October's deficit reduction package, which included BEA, Bush Administration and congressional leaders changed neither the content nor tone of their speeches about having to take action on the budget. But something had definitely changed—the deficit had been replaced as the primary enemy.

The parallel of this situation to what George Orwell wrote about in his classic book, *1984*, is eerie. That book described

a country called Oceania that, for as long as anyone could remember, had been at war with another country, Eurasia. According to everyone, Eurasia was the root cause of every hardship experienced in Oceania. Regardless of whether it was a shortage of consumer goods, a loss of personal freedom, repression, totalitarianism, etc., Eurasia was to blame.

To reinforce this feeling, every day everyone in Oceania had to take part in a "hate minute"—sixty seconds of screaming and yelling about Eurasia. Once a year the hate minutes became a hate week (the "Hate" in Orwell's words) during which huge outdoor demonstrations were held so that everyone could express their negative feelings about Eurasia. These demonstrations included thirty-foot posters of Eurasian soldiers glaring down in menacing positions; the parading of supposed Eurasian spies who were then humiliated, stoned, or hung; and lengthy fire-and-brimstone speeches about alleged Eurasian transgressions that whipped the crowds into an even greater hysteria.

One year, in the middle of the most important speech at the biggest demonstration of hate week, a messenger rushed onto the platform and handed the speaker ("orator") a note. The orator glanced at the note and, as Orwell wrote,

Nothing altered in his voice or manner, or in the content of what he was saying, but suddenly the names were different. Without words said, a wave of understanding rippled through the crowd. Oceania was at war with Eastasia. The next moment there was a tremendous commotion . . . There was a riotous interlude while posters were ripped from the walls, banners torn to shreds and trampled underfoot . . . But within two or three minutes it was all over. The orator, still gripping the neck of the microphone, his shoulders hunched forward, his free hand clawing at the air, had gone straight on with his speech. One minute more, and the feral roars of rage were again bursting from the crowd. The Hate continued exactly as before, except that the target had been changed.

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Oceania was at war with Eastasia: Oceania had always been at war with Eastasia. A large part of the political literature . . . was now completely obsolete. Reports and records of all kinds, newspapers, books, pamphlets, films, sound tracks, photographs—all had to be rectified at lightening speed. Although no directive was ever issued, it was known that the chiefs of the (Ministry of Truth) intended that within

one week no reference to the war with Eurasia, or the (previous) alliance with Eastasia, should remain anywhere. (emphasis added)<sup>6</sup>

While Orwell undoubtedly did not intend to write about the U.S. budget debate in the late twentieth century, the parallels to what has happened since the budget process was revised in October, 1990, are both remarkable and a bit unsettling.

First, the enemy was changed. A surging budget deficit is no longer the problem. A new enemy—enacted increases in federal spending and decreases in revenues—has been assumed.

Second, there was no formal announcement that the enemy had been changed. Instead, White House and congressional leaders simply started talking about it and then assumed that, as happened at the Hate Week demonstration, the public would simply accept the change as if nothing had changed at all. In Orwell's words, that the "feral roars of rage" would again be "bursting from the crowd."

Third, although all references to the deficit cannot be erased as easily as the ones pertaining to Eurasia were in Oceania, there has been an obvious attempt not to talk about the deficit and to instead shift focus to the new enemy.

The clearest example of this occurred in President Bush's State of the Union address in January, 1991. In that speech all the president said about the budget problem was as follows:

We must begin with control of Federal spending. That's why I'm submitting a budget that holds the growth of spending to less than the rate of inflation. And that's why, amid all the sound and fury of last year's budget debate, we put into law new, enforceable spending caps, so that future spending debates will mean a battle of ideas, not a bidding war.

There was not one word about the deficit in the entire four thousand word speech, in spite of the fact that the Bush Administration's own forecast released a week later indicated that the deficit would exceed \$318 billion in fiscal 1991 and come close to \$300 billion in 1992. This is three times the \$101 billion baseline deficit that a year earlier caused a six-month summit between the White House and Congress and a five-year, \$500 billion deficit re-

duction plan to be enacted.

Finally, the crowd, that is, the public accepted this change wholeheartedly. There has been virtually no negative reaction from Wall Street. In fact, the same day that the House of Representatives passed its version of the fiscal 1992 budget resolution with a deficit close to \$300 billion, the Dow Jones industrials closed above 3000 for the first time. Similarly, as of yet there has been no adverse reaction by international financial markets, the Federal Reserve Board, or the average voter.

While all of this may seem to be applicable mostly as an amusement or as an intellectual exercise suitable for a dissertation, changing the budget process from one that is primarily concerned with the deficit to one that is mostly interested in limiting enacted increases in spending or decreases in revenues has enormous implications for tax professionals. The reason is that most of the major tax bills of the last decade have been caused by the need for additional revenue for deficit reduction purposes and have been enacted as part of reconciliation—the major deficit reduction procedure of Gramm-Rudman-Hollings. Therefore, if deficit reduction is no longer the goal, then large tax changes for revenue-raising purposes are far less likely.

This is not just speculation. The fiscal 1992 budget debate—the first to be conducted under the new BEA process—includes no required deficit reductions even though the deficit is projected to approach \$300 billion, almost \$80 billion more than the previous record of \$221 billion in fiscal 1986. As a result, no reconciliation bill has been planned and no major tax increases are probable.<sup>7</sup> The same is true for fiscal 1993—no deficit reductions will be

required, and so a tax increase is far less likely.

There are good arguments on all sides of the question of whether the deficit really is the key and whether a process devoted to its reduction can be successful. The point is that the change was accomplished largely without debate. There were no hearings, no reports; in fact, there was almost no public debate of any kind.

All of this makes you wonder if Orwell's only mistake was that he mis-titled his book by six years. By federal budgeting standards, that is barely a rounding error.

#### ENDNOTES

<sup>1</sup>Title 13 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508.

<sup>2</sup>Public Law 99-177. The formal name of this law is the Balanced Budget and Emergency Deficit Control Act of 1985. It was later amended by Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

<sup>3</sup>For fiscal 1991-1993, the deficit maximums must be adjusted each year to take into account changes in the economic outlook. For fiscal 1994 and 1995, the president has the option of deciding whether to continue to make this adjustment. If, as seems likely at this point, the president continues to adjust the maximums, then there is no way to trigger an excess deficit sequester through fiscal 1995.

<sup>4</sup>BEA mandates that the caps be revised each year by the president when he or she submits a budget to Congress.

<sup>5</sup>About \$26 billion in entitlements is eligible to be cut in a PAYGO sequester; the rest is exempt. In the unlikely event that more than this amount is needed as an offset, appropriations will be cut as needed, half from defense and half from domestic.

<sup>6</sup>Orwell, George. 1984, Signet Classic, New York, N.Y. 1981, pp. 149-150.

<sup>7</sup>Under the "pay-as-you-go" rules created by the Budget Enforcement Act, a tax increase would be needed if Congress and the White House agree to enact legislation that either increases spending on entitlements or decreases revenues. If this occurs, however, neither of these are expected to require anything close to the tax increases that have been enacted for deficit reduction purposes.