A MONTHLY DIGEST OF KEY STATE, FEDERAL AND INTERNATIONAL TAX DEVELOPMENTS TO KEEP YOU ABREAST OF CURRENT AND PENDING TAX CONCERNS

TAX INSIGHTS

Highlighting tax developments of interest to today's companies on the move.

BUSINESS GROWTH

Tax reform likely to occur early next year

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With Republicans controlling both houses of Congress and the White House, the likelihood that tax reform will be a high legislative priority in 2017 is virtually assured. Both President-elect Trump and the House Republicans have put out fairly detailed blueprints of how they would like to reform the nation's tax laws. Although there are differences, their proposals are more alike than they are different. Even though the Senate Republicans have not put out a proposal of their own, there is widespread support for tax reform among Senate Republicans as well. The clear belief on the part of President-elect Trump and Congressional Republicans is that tax reform is critical if the economy is to grow at a faster rate than it has in recent years, so expect to see action, probably significant action, early next year.

This document describes the two leading comprehensive tax reform proposals, the proposals set out by President-elect Trump during the presidential campaign and the proposals set out by the House Republicans in June 2016 as part of their "Better Way" proposal.

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Individual tax reform

Both President-elect Trump's and House Republicans' proposals for individual tax reform have the same overarching themes of achieving comprehensive tax reform by lowering tax rates for everyone and broadening the tax base by reducing or eliminating deductions and credits.

Under both proposals, the current seven rate brackets would be reduced to the same three rates:

Individual tax rate proposals

Donald Trump	12 percent, 25 percent and 33 percent
House Republicans	12 percent, 25 percent and 33 percent

Both proposals also would increase the standard deduction from the current levels ($6,300 single/$12,600 married filing jointly) to dramatically higher levels. In theory, this would lead to simplification because the increased standard deduction would be high enough that many taxpayers would no longer itemize deductions.

Standard deduction proposals

Donald Trump	$30,000 for married and $15,000 for single
House Republicans	$24,000 for married, $18,000 for single with a child and $12,000 for single

Although fewer taxpayers would choose to itemize if the standard deduction is raised, both proposals keep at least some level of itemized deductions. The proposals differ in this area, but both propose to limit itemized deductions compared to current law. This would be a substantial simplification over the current system, which has different limits for different deductions and a phase-out based upon adjusted gross income.

Itemized deduction proposals

Donald Trump	▪ Cap itemized deductions at $200,000 for married and $100,000 for single ▪ Close special interest tax breaks
House Republicans	▪ Allow only mortgage interest and charitable deductions ▪ Repeal state and local tax, medical and miscellaneous deductions

In addition to standard and itemized deductions, the current individual income tax system provides for personal exemptions of $4,050 per dependent and contains complicated credits related to child and dependent care. The proposals differ slightly in these areas, but both recognize that changes are necessary to simplify this area of the tax law and to help the middle class with expensive child care costs.

Exemptions and child and dependent care proposals

Donald Trump	▪ No specific proposal on personal exemptions
	▪ Add the following:
	  ◦ Above-the-line deduction for average child care costs (limited to taxpayers with income of $500,000 or below for married and $250,000 or below for single)
	  ◦ Rebates for low-income taxpayers
	  ◦ Available to stay-at-home parents
	  ◦ Dependent Care Savings Account for $2,000/year—low-income eligible for $500 federal match
	  ◦ Six weeks of guaranteed maternity leave through the unemployed insurance system
	▪ $5,000 elder care deduction

House Republicans	▪ Replace personal exemptions with a tax credit of:
	  ◦ $1,500 per child
	  ◦ $500 for other dependents

Currently, capital gains are taxed at preferential rates of 0, 15 and 20 percent, depending upon the taxpayer's general tax bracket. In addition, since 2013, taxpayers with income over certain threshold levels pay an additional 3.8 percent net investment income (NII) tax on income such as capital gains, interest, dividends, rent and passive business income. As explained below, both proposals would change various aspects of these rules, but would continue to tax capital gains at a lower rate than ordinary income. Both proposals would eliminate the 3.8 percent NII tax.

Capital gains proposals

Donald Trump	▪ Eliminate 3.8 percent tax on NII ▪ Retain 0, 15 and 20 percent preferential rates
House Republicans	▪ Eliminate 3.8 percent tax on NII ▪ Exclude 50 percent of gain from income, resulting in rates of 0, 6, 12.5 and 16.5 percent

Similar to capital gains, under the current system, certain "qualified" corporate dividends are taxed at 15 or 20 percent, while interest (along with other forms of portfolio income) is taxed at ordinary income rates. The president-elect's proposal does not address dividends and interest other than to eliminate the 3.8 percent NII tax. The House Republicans' proposal would continue to effectively tax qualified dividends at capital gains rates by excluding half of such amounts from income. The House Republicans would also make a very significant change by extending that 50 percent exclusion to interest income.

Dividends and interest proposals

Donald Trump	No proposal
House Republicans	50 percent exclusion from income Rates: 6, 12.5 and 16.5 percent

Both proposals would eliminate the alternative minimum tax (AMT). Aside from the effects on bottom-line tax liabilities, this would eliminate the complexity of requiring taxpayers to compute their taxes, or potential taxes when planning a transaction or change in personal status, under two different systems.

AMT proposals

Donald Trump	Eliminates
House Republicans	Eliminates

To read more, go to: http://rsmus.com/what-we-do/services/tax/washington-national-tax/tax-reform-likely-to-occur-early-next-year.html

US Treasury's much-anticipated debt-equity regulations

Section 385 dictates equity treatment for some related party debt

Download white paper

In April 2016, the Treasury proposed broad and controversial debt-equity regulations designed to limit erosion of the United States corporate tax base. The final and temporary regulations (the Regulations) issued Oct. 13, 2016, significantly improve upon the proposed regulations and place the focus squarely on certain areas in which the Treasury and the Internal Revenue Service (IRS) have viewed issuance of related party debt as inappropriate or abusive.

The Regulations provide rules that would characterize certain related party debt as equity and thereby, eliminate interest deductions that would otherwise be available to offset corporate income tax. They also provide documentation requirements that companies must meet to avoid a presumption of equity treatment for certain debt.

The Regulations generally apply to debt instruments between members of an expanded group of affiliated corporations (an EG). The good news is that they provide numerous exceptions intended to limit their potential application to transactions that do not raise the earnings stripping concerns that the Treasury intended to address. These exceptions in many instances exclude S corporations, banks, insurance companies, regulated investment companies (RIC) and real estate investment trusts (REITs) from their scope.

Taking stock of the Regulations

Corporate taxpayers are taking notice of the Regulations, considering their applicability and effective dates. Companies may want to consider the following steps in response to the Regulations:

1. Determine the existence of an EG and identify each member of the EG
2. Identify debts issued by U.S. corporations in the EG to other members of the EG (or certain related partnerships)
3. Determine whether appropriate documentation is in place and if not, make sure documentation is in place by the applicable date
4. Identify any recharacterized debt instruments resulting from application of the Regulations
5. Establish policies and procedures to track and comply with the recharacterization rules
6. Where the Regulations might potentially provide undesirable results, consider alternative structures, bearing in mind other tax rules intended to address base erosion and profit shifting (BEPS)
7. Perform a factual debt-equity analysis under general federal tax principles with respect to debt that is not subject to recharacterization under the Regulations

Download our white paper for additional discussion of the Regulations, including their documentation requirements and equity recharacterization rules.

2016 year-end state and local tax considerations

2016 legislative changes: State tax matters

Download the guide

Doing business in multiple states can mean addressing a variety of state and local tax challenges, including new and constantly changing statutory frameworks.

In 2015, state legislatures promised sweeping changes across a broad spectrum of state and local tax topics. Sales and use tax legislation primarily focused on expanding traditional nexus concepts in an increasingly digital economy. Income and franchise tax legislation included the treatment of foreign entities, mandatory combined reporting, market-based sourcing and factor presence nexus. However, while much was promised in 2015, some of what was enacted was quickly clawed back by state legislatures.

In 2016, promises were not as broad or grand, and what was enacted proved to be incremental and more localized in nature. However, what did come to pass is shaking the foundation of the state and local tax (SALT) world. Legislative attacks on the 25-year-old sales tax physical presence standard established in *Quill* resulted in almost a dozen state proposals and two enacted laws directly challenging that standard. State legislative action coupled with the lack of movement in Congress to address remote-seller sales tax collection, leaves us wondering if 2017 will be the year *Quill* is overturned, replaced or even reinforced. Income and franchise tax legislation was less groundbreaking, with states continuing the march toward single sales factor apportionment and market-based sourcing.

Our 2016 SALT year-end tax planning guide introduces information on the following (and more):

- Income and franchise and sales and use tax nexus changes
- Ever-changing taxability of digital goods
- State apportionment and allocation updates
- Credits and incentives developments
- Current and past SALT amnesties
- Changes that can affect your 2016 filings

WEBCASTS

Consumer products issues and insights 2016–2017 webcast series

Join us for an informative webcast series that addresses your key challenges and opportunities within the consumer products industry. Learn about key audit and accounting procedures, get updates on tax compliance and incentives, understand helpful technology trends, and learn the importance of optimizing your security functions. Get vital insights to improve your business going forward.

Register

See the following for specific webcast topics and dates. All webcasts begin at 2 p.m. ET.

- Audit and accounting, Wednesday, Oct. 26, 2016
- 2016 tax changes affecting consumer products companies, Tuesday, Dec. 13, 2016
- Emerging technology trends to empower your company, Thursday, Feb. 23, 2017
- Security trends and considerations for consumer products companies, Wednesday, April 19, 2017

Audit and accounting
Wednesday, Oct. 26, 2016

Download webcast slides

Top year-end tax planning strategies for businesses

What strategies should you consider to maximize your tax planning as the year draws to a close?

Our panel will focus on important federal, international and state and local tax considerations you need to know to prepare for year-end planning. Get the latest details and developments on:

- Preparing for the new 2017 filing dates, requirements and penalties for noncompliance
- Managing state nexus and apportionment rules
- Tax accounting method considerations
- Other year-end planning considerations including Foreign Account Tax Compliance Act (FATCA) reporting
- What's ahead? Post-election, what actions should you consider before the end of the year based on the outcome of the presidential election?

Download webcast slides

Click here to access our annual guide to year-end tax considerations for business.

Private Client Services webcast series: Looking ahead to year-end

The presidential election victory of Donald J. Trump and a Republican-held House of Representatives and Senate signal major changes.

Join leaders from RSM's Private Client Services and Washington National Tax practice for a review of how 2016 tax developments may affect your year-end and future tax planning.

The discussion will explore key topics to consider in planning for the end of the year, including:

- The implications of the election results on income and estate tax planning for the rest of 2016...and beyond
- Anticipated 2017 tax developments
- Year-end individual income and estate and gift tax planning

Download webcast slides

Economic and market trends for business leaders

Our chief economist and financial advisors highlight what matters most

As a business owner or executive, you need to understand what is happening in the economy and how it may affect your business growth strategy or succession planning. We help the middle market understand, anticipate and address the challenges of today's economy through fresh perspectives from our chief economist and other business leaders. Our newest research, *The Middle Market Business Index*, offers a quarterly view into the trends and concerns important to your fellow middle market business leaders.

Read our full list of resources.

TRENDING

Managing your personal wealth after leaving a closely held business

Business owner financial planning: Define goals, approach holistically

You've invested your time, resources and passion in your business. Now, with the decision to either transition ownership or to sell your company, are you confident that the wealth you've built will address your needs into retirement? How do you know if you have enough money to take care of your family, pursue your pastimes, support your charitable causes and maintain your lifestyle?

The following considerations can help guide you during business succession financial planning, regardless of whether your wealth is primarily tied to the sale of your business or to a portfolio you've built for retirement.

It starts with questions and your specific answers

Establishing your personal wealth goals requires some introspection from you. It's important to understand and determine your core capital requirements—the capital needed to support your lifestyle needs and wants, in addition to your estate and charitable goals. The following questions should be a part of your business succession financial planning process:

- What will be the emotional and financial impact of transitioning the business to family members versus selling to employees or a third party?
- How much is your business worth, and will you have enough money post-sale to support your needs and wishes and take care of your family?
- What will selling the business mean to you, and how will you spend your retirement or post-sale life?
- What steps are necessary to prepare your business for sale and monetize the return on your investment?
- Are there specific tax considerations and obligations to address, and how will these concerns affect your wealth planning efforts?
- How about your legacy? Will there be enough to leave money for your heirs and charitable interests?

Find your personal chief financial officer (CFO)

Wealth planning is a complex strategy, with many moving parts and variables. You may think you have a solid wealth management strategy in place, and then, an emergency occurs. A sudden financial need happens, and your plan must pivot. You need advisors who can help you anticipate the "what ifs." Your team may include an accountant, private banker, corporate tax advisor, life insurance agent, wealth advisor, lawyer and more. All may provide reputable guidance in their field and be well-meaning in their advice to you, but some may be isolated from others on the team, and because of this, their guidance may not be fully optimized.

What's critical to your team is a lead professional—a personal CFO—who can provide that holistic view of your entire wealth strategy. Similar to the role of the CFO at your company, this professional understands your entire financial position. Your personal CFO knows your vision and also works with the entire team across the various specialties to move toward your wealth goals. This will allow your team of advisors, with the connection and oversight of your personal CFO, to work cohesively for you. Whether it's a professional wealth management advisor or another professional, make sure you've selected a lead advisor who is receptive, is a great listener, works in tandem with your other financial professionals and can synthesize the complexities of your planning.

The right time is now

Is there an optimal time to begin your wealth planning, particularly in relation to your business succession efforts? Most advisors will tell you your personal wealth planning should be part of your business strategy from the very beginning, but this specific planning often becomes a secondary focus. Business owners frequently are entrenched in daily operations, and suddenly, 20 years later, the time is right to sell or transition to family members. Is it too late at this point to think about tomorrow and the wealth needed to fund the next stages of life? Certainly not, but don't delay any further. If selling your business is imminent, now is the time to either assess your current wealth management plan or begin planning today with your advisory team. They can help you work through your challenges, timeline and needs.

Wealth planning and preservation can be a challenging effort, but being mindful of your specific goals and selecting the right team to get you where you want to be is a promising start.

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