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POTENTIAL TAX LEGISLATIVE DEVELOPMENTS IN THE U.S. UNDER THE TRUMP PRESIDENCY

By Mark Feigenbaum, CPA, CA

Looking ahead to 2017, we may see some tax changes on the horizon. For those that may not have heard, there will be a new president on January 20th, and both Congress and the executive branch will all be Republican. This may make significant changes to the tax code easier to pass through the system, though each branch may not be in complete agreement when it comes to their desired changes.

Tax bills start in the House of Representatives and an agreement must be reached with the Senate bill for a final draft version of the bill. Subsequently, a single unified bill is presented to the President who then can sign it into law. The President's wishes are not law, but consideration must be made to his agenda and we can imagine there will be a lot of similarities with the congressional agenda of the same party.

Tax Rates

Starting with proposals for individual taxpayers, we can look at both the President's and the congressional plans (taken from their last publications as of December 2016).

For tax rates (assuming married filing jointly – single taxpayers brackets would be ½ the threshold amounts) both would like to see a rate reduction, as follows: taxpayers with income less than $75,000 would pay tax at a 12% rate, under $225,000 at 25% and 33% for income over $225,000. There would also be a 0% rate for low-income taxpayers. Currently, the maximum rate is 39.6% at income over $466,950. The house plan would reduce the top rate to 33% and the number of brackets to three.

Capital Gains

For capital gains, the current maximum rate is 20% of the gain (with 0% and 15% brackets depending on the total amount of adjusted gross income [AGI]). Qualified dividends are also taxed at these rates. The House wants to reduce the rates and make a more progressive system for gains, interest and dividend income. The President's plan would keep the existing system.

Taxpayers have a choice of taking the larger of a statutory standard deduction or a slate of itemized deductions (such as mortgage interest, property taxes, state and local taxes, sales taxes, charitable deductions, etc.). The standard deduction for a married joint return is $12,600 (for both the 2015 & 2016 taxation years) with a higher amount for elderly or blind taxpayers. There is also a deduction from income for a personal exemption. The 2016 amount of $4,050 can be deducted each for a taxpayer, their spouse and anyone who qualifies as a dependent. These deductions are reduced for certain high-income individuals.

The President's plan states that itemized deductions are capped at $200,000 and the standard deduction is increased to $30,000, with the personal exemption eliminated. The House would eliminate all itemized deductions except for mortgage interest and charitable contributions.

Both plans agree on eliminating the alternative minimum tax and repealing the estate tax (though only the President's plan mentions repeal of the gift tax). Of great importance to Canadians is that both plans endeavor to repeal the net investment income tax (the 3.8% tax on investment income which cannot be reduced by foreign taxes paid).

Business and Other Possible Tax Changes

From a business standpoint, a very interesting component of the House plan is that there would be a "small business tax rate" for sole proprietorships or pass-through entities that now are taxed at the individual rate. The house also hopes to allow a full deduction for the cost of business investments in the year they were purchased, which appears to eliminate the depreciation system. They also want to extend net operating loss carryovers from 20 years to an indefinite period, increasing by an interest factor.

Other potential changes of interest to Canadians are that they want to simplify the foreign tax rules, eliminate most of the Subpart F rules (similar to Canadian FAPI rules), and provide for a 100% exemption for dividends from foreign subsidiaries.

The Presidents' business tax plan decreases the corporate rate from 35% to 15%, but eliminates "most corporate expenditures" (with no specific elaboration on that). Corporate profits held offshore would be subject to a one-time 10% tax.

Conclusion

There are a lot of similarities and differences in both plans. There are also a number of political factors and negotiations that would take place and procedural options that are available which can influence any outcome. This may mean that many of these proposals never come to fruition or in a modified form. In any event, it appears likely that there will be some significant tax reform in the new administration and will definitely be interesting to watch as it unfolds.

For more information, please contact:

Dr. Mark Feigenbaum is a US Attorney, CPA, and CA, practicing in Thornhill, Ontario specializing in cross-border taxation for individuals primarily in the sports, entertainment and music industries, and individuals moving to and from the U.S., businesses expanding to the U.S., estate planning, U.S. immigration, and tax litigation.

He can be contacted at mark@feigenbaumlaw.com or 905-695-1269.