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Tax Newsletter
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Tax Reform Updates - Comprehensive, permanent tax reform possible this year, Ryan says

Just ahead of the first anniversary of the release of the House Republican tax reform blueprint, Speaker, Paul Ryan, R-Wis., delivered a speech on June 20 reiterating the plan's broad principles and goals and confidently forecasting the enactment of comprehensive legislation this calendar year. Ryan's remarks came as GOP taxwriters continue to huddle with Trump administration officials to craft a joint proposal that they can move through Congress in the fall and as Senate Republicans work to develop alternative base erosion measures to replace the blueprint's controversial border-adjustment tax provision.

In what Ryan's office billed as his "first major speech on tax reform," delivered to a Republican-friendly audience at the National Association of Manufacturer's (NAM) annual summit in Washington, the speaker – who previously chaired the House Ways and Means Committee – walked through the general contours of the 2016 "Better Way" blueprint without delving into significant details or breaking any new ground. The speech touched on lower rates for both individuals and businesses, parity for passthrough entities, a shift to a territorial system for taxing foreign-source income of US multinationals, and the simplification – or elimination – of current-law tax deductions and credits.

Emphasis on permanent reforms

Ryan also emphasized his belief that "these tax reforms – these tax cuts – need to be permanent." Speaking to reporters on June 21, though, he hedged some, saying "[t]here are also provisions in tax reform that don't have to be permanent. But the key ones like rates, the things that businesses plan on, those things require the certainty of permanence, and that's where you get the economic growth."

Permanency is a subject that has been debated in recent weeks, as some Republicans have argued that a simpler bill focusing largely on tax cuts rather than comprehensive reform might be more easily achieved. Such cuts, without significant accompanying revenue offsets, would have to be temporary in order to meet the budget reconciliation rules that Republicans are currently planning to use for tax reform, which preclude legislation that increases the deficit beyond the budget window. (In recent Congresses, the budget window has been 10 years, although there is no statutory requirement that budget blueprints cover a decade.) One work-around to achieving deficit neutrality would be to lengthen the budget window beyond its current 10 years. This idea has been floated by some Republicans and was recently backed by Senate Finance Committee Chairman Orrin Hatch, R-Utah, but later ran into opposition from both Ryan and current House Ways and Means Committee Chairman Kevin Brady, R-Texas.

State and local tax deduction: Also in his interview with CNBC, Ryan stated unequivocally that he still fully supports repealing the state and local tax deduction – something President Trump has also endorsed; however, a group of 70 House members – including seven Republicans – from states that would be most impacted by this change sent a letter to Treasury Secretary Steven Mnuchin on June 19 advocating retention of the deduction.

Senate Republicans scouring previous tax reform proposals

One proposal senators are studying is draft legislation introduced in 2014 by then-chairman of the House Ways and Means Committee Dave Camp, R-Mich., that included a bifurcated minimum worldwide effective tax rate of 15 percent on foreign base company intangible income and 12.5 percent on sales income. A minimum tax – also proposed by the Obama administration but at a higher rate of 19 percent – is one way to address base erosion concerns that would accompany a shift from the current worldwide tax system to a territorial system for taxing foreign-source income.

(Camp's proposal was not embraced at the time by the business community or many congressional Republicans.)

The Camp draft also called for the elimination or modification of some deductions and credits that have not been specifically addressed by House taxwriters to date but are said to be part of Senate discussions, including amortization of the deduction for advertising expenses, the repeal of last-in-first-out (LIFO) accounting, changes to the research and development tax credit, and a set of provisions aimed at the insurance industry.

Another previously introduced bill reportedly getting a second look is an international tax reform proposal introduced by Sen. Enzi in 2012.

URL: http://newsletters.usdbriefs.com/2017/Tax/TNV/170623_2.pdf

Tax Reform Updates - Congressional, White House negotiators drop border-adjustment tax from tax reform principles

Congressional Republican leaders and White House officials announced in a joint statement July 27 that as part of their shared commitment to tax reform, a border-adjustment tax will not be included in any tax code overhaul that moves through Congress this year.

The statement – which was released by House Speaker Paul Ryan of Wisconsin, Senate Majority Leader Mitch McConnell of Kentucky, House Ways and Means Committee Chairman Kevin Brady of Texas, Senate Finance Committee Orrin Hatch of Utah, Treasury Secretary Steven Mnuchin, and National Economic Council Director Gary Cohn (known informally as the "Big Six") – outlines a consensus Republican view of the key principles that should animate tax reform.

'Many unknowns' on border-adjustment

The statement is drafted in broad strokes and largely avoids specific policy details such as target tax rates for businesses or individuals. On the issue of corporate taxation, however, the drafters express confidence that "without transitioning to a new domestic consumption-based tax system, there is a viable approach for ensuring a level playing field between American and foreign companies and workers, while protecting American jobs and the US tax base."

"While we have debated the pro-growth benefits of border adjustability, we appreciate that there are many unknowns associated with it and have decided to set this policy aside in order to advance tax reform," the statement said.

The "Better Way" tax reform blueprint that Ways and Means Chairman Brady and House Speaker Ryan released in June of last year called for a new destination-based cash flow tax with "border adjustments" through an unspecified mechanism that would serve to eliminate US tax on products, services, and intangibles exported abroad (regardless of their production location) and impose a 20 percent US tax on products, services, and intangibles imported into the US (also regardless of production location).

The concept of a border-adjustment tax – which is described only in general terms in the House GOP blueprint and was never fleshed out in a discussion draft or an introduced bill – had divided congressional Republicans and became the focus of an intensive lobbying battle within the business community, with retailers, oil refiners, and other import-dependent industry sectors on one side and export-heavy businesses on the other. It also received only lukewarm support from President Trump.

No alternative put forward
The border-adjustment proposal in the blueprint has been unofficially estimated to raise over $1 trillion dollars to offset the cost of a corporate rate cut. Significantly, the statement does not propose any alternative revenue source for bankrolling a rate reduction.

Other principles in brief
In addition to discussing the border-adjustment issue, the statement from the Big Six also addresses some other significant tax reform priorities for businesses and individuals, albeit obliquely.

Rates: The statement calls for tax reform that "protect[s] American jobs and make[s] taxes simpler, fairer, and lower for hard-working American families" and lowers tax rates for businesses of all sizes "as much as possible."

Permanence: The statement urges the congressional taxwriting committees to develop legislation that "places a priority on permanence." This appears to be a call for lawmakers to move forward with comprehensive, revenue-neutral tax reform rather than a tax cut-only bill (which would have to be temporary in order to comply with the budget reconciliation rules, which preclude legislation that increases the deficit outside of the 10-year budget window).

Territoriality: The statement does not include an explicit call to adopt a territorial system for taxing foreign-source income of US multinationals. It does, however, call for tax reform that "creates a system that encourages American companies to bring back jobs and profits trapped overseas." The House GOP tax reform blueprint advocates a territorial tax system; Treasury Secretary Mnuchin commented at a July 26 Senate Appropriations and General Government Subcommittee hearing that moving to territoriality is a "main priority" of the Trump administration; and Finance Committee Chairman Hatch has been extolling the virtues of a territorial tax system in recent speeches and materials released by his panel.

Cost recovery and limits on interest deductibility: The statement includes a reference to "unprecedented capital expensing" for businesses; however, it does not specify the extent of any proposed change in the expensing rules nor does it mention pairing that proposal with changes to the treatment of interest deductibility.

The House GOP blueprint proposes 100 percent expensing for all assets – tangible and intangible – in year one, but pairs that provision with a call for repealing the deduction for net interest expenses. Small-business owners have argued that eliminating the deduction for net interest expenses could be problematic for businesses that rely on debt financing because they have limited access to capital.

Handoff to the taxwriting committees…

With the release of the statement, the Big Six appeared to shift the tax reform process back to the taxwriting committees, saying, "[o]ur expectation is for this legislation to move through the committees this fall, under regular order, followed by consideration on the House and Senate floors."

Regular order should include passage of the bills through both the Ways and Means and Finance committees before moving to the House and Senate floors, with the opportunity for members of both parties to offer amendments. This does not appear to preclude the use of the reconciliation process, by which Republicans could pass the legislation in the Senate with a simple majority vote rather than the three-fifths majority typically required for nonreconciliation bills to clear procedural hurdles in that chamber.

URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-taxnewsandviews-170727.pdf

President Trump's Tax Reform Proposal – Multistate Tax Considerations

Overview

On April 26, 2017, the Trump administration released a one-page fact sheet outlining principles for tax reform (the "Proposal"), with the stated goals of: (1) growing the economy; (2) simplifying the tax code; (3) providing tax relief to American families, and (4) lowering the business tax rate.[1] These goals and some additional context to the Proposal were provided by Treasury Secretary Steven Mnuchin and National Economic Council Director Gary Cohn at an April 26th press briefing.

This article highlights the various federal income tax elements of the Proposal and provides an overview of the associated multistate tax considerations.[2]

Multistate Tax Considerations

The potential implications of tax reform go beyond federal taxation. Below is a summary of some key considerations from a multistate perspective:

Rate Reduction - With the potential reduction of the federal tax rate from 35% to a rate that may be as low as 15%, state corporate income taxes will become a more significant factor in corporate taxation. States are not required to reduce their tax rates, and many states are facing budgetary pressures that may weigh against a corporate income tax rate cut.

Expansion of the state tax base - Under the Proposal, the federal tax base could become much broader as most tax deductions may be eliminated. This would ultimately lead to an expansion of the state tax base because many states conform (to varying degrees) to the federal definition of taxable income. As stated above, while the federal changes include rate cuts to offset the broader base, it is uncertain whether states would take a similar approach; due to budget pressures, it is possible that many states would not cut their rates.

State Non-Conformity of the Internal Revenue Code ("IRC") - Generally, states conform to the IRC as of a specific date (i.e. "static" conformity). When tax reform occurs, a situation could arise where states that have static conformity require that federal taxable income be determined under the pre-tax reform IRC. Even in states that conform to the IRC, the states may de-couple from key provisions that have the potential to erode the state tax base.

Repatriation - If repatriation is not included in federal taxable income, but rather is treated as a separate taxable item, questions arise as to how it will be taxed by the states. Which entity in the federal affiliated group will be the "deemed recipient" of the "deemed repatriation"? Will the repatriation of income be treated as a dividend, as a new category of miscellaneous income reported on a new subsection of Line 29 of the federal Form 1120, or a line 1 gross receipt? What will be the apportionment factor implications (i.e., will it be apportionable, allocable or potentially distortive)?

Negotiating credits & incentives on reinvestments - Initiating discussions with state economic development agencies should be considered to assess incentives packages related to re-investment of funds into the United States. Given the potential magnitude of the repatriation of foreign profits (untaxed foreign profits held overseas by U.S. corporate taxpayers are estimated to exceed $2 trillion), many taxpayers may use these funds on capital expenditures and/or increase labor force and states are proactively competing to attract businesses.

Territorial System - While it is still unknown how states would respond in a territorial system, companies should re-assess their filing methodologies for state tax purposes, and determine whether it is advantageous to file a "water's-edge" election or file on a worldwide basis. Additionally, companies that have had historical international planning structures, may assess the state impact of such structures, in any analysis related to "unwinding" such structures.

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[1] 2017 Tax Reform for Economic Growth and American Jobs

[2] Note that the Proposal is relatively vague and the prospects for its passage by Congress are unclear at this time; these multistate tax considerations are described in the context of the Proposal concepts being ultimately enacted.

This would be of particular relevance in states that have worldwide reporting or if states propose legislation to mandate worldwide reporting.

Settling audits resulting in liabilities - To the extent there is a reduction in the federal tax rate, the resolution of state tax audits prior to the reduction which result in payments may yield a permanent tax rate benefit. Because negotiating a resolution can be a time-consuming process, consideration should be given to initiating discussions with the applicable taxing authorities as soon as practical.

State reporting of federal RAR changes - For similar reasons as the last (and prior to the reduction of the federal tax rate), consideration should also be given to accelerating the reporting/payment of federal RAR changes in those states where a liability may result.

URL: https://www2.deloitte.com/us/en/pages/tax/articles/president-trump-tax-reform-proposal-multistate-tax-considerations.html

Transfer Pricing Implications of New US Tax Return Due Dates for C Corporations

Many US tax return due dates have changed for taxable periods beginning after December 31, 2015. This article focuses on the impact these changes will have on C corporations.

Changes to C Corporations

The changes to the tax return due dates and extension periods, as enacted by H.R. 3236, The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, affect C corporations and other entities. Under the act, C corporations generally must file on the 15th day of the fourth month after the close of their taxable year. An exception to this has been retained for C corporations using a June 30 tax year (or any short period ending in June), which are still governed by the prior law until 2026. Under prior law, C corporations were required to file by the 15th day of the third month following the close of their taxable year. For more information, please see below.

Under the new rules provided by the act, C corporations with a calendar-year-end were initially given an automatic extension of only five months to file their tax returns starting in 2016. IRC §6081(b). Nevertheless, the IRS announced on February 8 that they would now be giving calendar-year-end C corporations a six-month extension period.

As a result, the extended due date for these corporations (including real estate investment trusts (REITs), regulated investment companies (RICs), and other entities filing Form 1120 series income tax returns) is now October 15 rather than September 15, if the corporation timely files the appropriate extension form (Form 7004) on or before April 15.

C corporations with a June 30 fiscal-year-end (or any short period ending in June) must still follow the rule that was in place before the act, which as noted above requires that the tax return be filed on the 15th day of the third month following the close of their taxable year. In addition, these types of C corporations have not been affected by the February 8 announcement and still have an automatic seven-month extension period. Those due date and extension rules will continue to apply for fiscal years beginning after January 1, 2016, and before January 1, 2026.

A summary of the tax return due dates for C corporations follows:[3]

[3] If the due date of a return falls on a weekend or legal holiday, then the tax return is not due until the following day that is not a weekend or holiday.

Taxable Year End	Due Date of Return	Extension Period
December 31	15th day of 4th month	Now 6 months (per IRS annoucement)
	Due April 15	Due October 15
March 31	15th day of 4th month	6 months
	Due July 15	Due January 15
June 30	15th day of 3rd month	7 months
	Due September 15	Due April 15

Implications for transfer pricing and competent authority documents starting in 2016

These changes will have an impact on when to file various transfer pricing and competent authority documents starting in 2016, because many of those documents must be either submitted or in existence at the time when the tax return is filed. A summary of these documents and the impact of this new six-month extension for calendar-year-end C corporations is provided below:

Document	Document Due Date	Impact of New Rule
Section 6662 Documentation	Documentation must be in existence when return is filed	New due date (Generally October 15 or January 15)
Protective Claims: Annual Notification Requirement	Submitted no later than the date on which the taxpayer timely files a tax return	New due date (Generally October 15 or January 15)
Treaty Notifications: Annual Notification Requirement	Submitted no later than the date on which the taxpayer timely files a tax return	New due date (Generally October 15 or January 15)
APA Annual Reports	If governed by Rev. Proc. 2006-9, either the later of: (i) 90 days after the time prescribed by statute (including extensions) for filing its federal income tax return for the year covered by the report; or (ii) 90 days after the effective date of the APA	Potentially, new due date (But check the terms of the APA)
	If governed by Rev. Proc. 2015-41, either on or before the later of: (i) 15th day of 12th month following close of APA year; or (ii) 90 days after effective date of APA	Most likely, no impact (But check the terms of the APA)
Form 8975 and Accompanying Schedules A for Country-by-Country Reporting	Submitted with income tax return	New due date (Generally October 15 or January 15)[4]

As shown in the table above, IRC §6662 documentation, protective claim annual notifications, and treaty notification annual update letters will now generally be filed one month later than in the past. For calendar-year-end C corporations, the new due date will be October 15 if the corporation files pursuant to the new automatic six-month

[4] The rules for voluntary filing of country-by-country reports under Rev. Proc. 2017-23 would not be impacted by the new due dates or extension periods. Therefore, C corporations would still have to file their country-by-country reports within 12 months after the close of the taxable year that included the early reporting period even if they did file pursuant to the new extension rules.

extension per the February 8 announcement. Similarly, for corporations with a March 31 fiscal-year-end, these same documents will now be due by January 15 if the corporation files pursuant to the automatic six-month extension. This change in due dates for March 31 filers results not from the IRS announcement but from a change in the underlying law per the act.

APA annual reports may or may not be affected by the changed due dates, but taxpayers should consult the exact language of the APA itself to determine this. Many APAs list the exact date on which the annual report is due, rather than listing the boilerplate language in the applicable revenue procedure mentioned above. As noted, special rules still apply to corporations with a June fiscal-year-end, and country-by-country reports will have the same new due dates as the tax returns with which they must be submitted.

URL: https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-transfer-pricing-alert-17-005-21-march-2017.pdf

California FTB Issues Guidance on Carryover of Tax Attributes for Apportioning Taxpayers

Overview

On April 6, 2017, the California Franchise Tax Board ("FTB") issued Technical Advice Memorandum 2017-03 ("TAM 2017-03") regarding the application of Internal Revenue Code Sections ("IRC") 382, 383, and 384 for California tax purposes to multistate corporate taxpayers subject to apportionment.[5] Specifically, TAM 2017-03 provides guidance on whether the limitations on the use of tax attributes under IRC Sections 382, 383, and 384 are determined on a pre- or post-apportionment basis.[6]

This article provides background on IRC Sections 382, 383 and 384, summarizes the conclusions set forth in TAM 2017-03, and provides some taxpayer considerations.

Background on IRC Sections 382, 383, and 384

California Revenue and Taxation Code ("CRTC") Section 24451 incorporates by reference Subchapter C of Chapter 1 of Subtitle A of the IRC, which includes IRC Sections 382, 383, and 384, and thus, California generally conforms to these federal income tax provisions.[7]

IRC Section 382 applies when there has been a substantial change in a corporation's stock ownership and the acquired corporation possesses net operating losses ("NOLs") and/or net unrealized built-in losses ("NUBILs").[8] This type of corporation is referred to as a "loss corporation". Specifically, IRC Section 382 limits a corporation's ability to use pre-change NOLs and NUBILs to offset income in a post-change year.[9] This NOL limitation generally equals the value of the loss corporation at the time of its change in ownership multiplied by the federally approved long-term tax-exempt rate ("IRC Section 382 limitation").[10] IRC Section 383 provides the same IRC Section 382 limitation on the use of excess credits or capital loss carryovers ("IRC Section 383 limitation") from a loss corporation.[11]

Where the loss corporation possesses under-valued assets and over-valued assets at the time of the change in ownership, two potential scenarios can arise. First, if the amount of built-in gains exceeds the amount of built-in losses, the loss corporation has net unrealized built-in gains ("NUBIGs"). If any of the under-valued assets are disposed of for a gain, the gain (referred to as realized built-in gain ("RBIG")) is permitted to increase the loss corporation's IRC Section 382 limitation for that year.[12] Alternatively, if any over-valued assets are disposed of for a loss, the loss (referred to as a realized built-in loss ("RBIL")) is also subject to the IRC Section 382 limitation.[13] Under

[5] California Franchise Tax Board, Technical Advice Memorandum 2017-03 (April 6, 2017)
[6] *Id.*
[7] Cal. Rev. & Tax Code § 24451.
[8] I.R.C. § 382.
[9] I.R.C. § 382(a).
[10] IRC § 382(b)(1).
[11] IRC § 383.
[12] California Franchise Tax Board, Technical Advice Memorandum 2017-03.
[13] *Id.*

IRC Section 382(h)(1)(B), the aggregate of the RBILs that are allowed must not exceed the amount of NUBILs at the time of the change in ownership. [14] The Internal Revenue Service has provided guidance in its Notice 2003-65 for allowable methods for determining NUBIG/NUBIL and RBIG/RBIL in transactions in which IRC Section 382(h) applies.[15]

IRC Section 384 provides a similar limitation on the use of losses in certain types of corporate acquisitions and reorganizations.[16] Under IRC Section 384, if a corporation that has NOLs and NUBILS acquires a corporation with undervalued assets, any NUBIGs may not be offset by the acquiring corporation's NOLs or NUBILs.[17]

Summary of TAM 2017-03

With respect to the IRC Section 382 and 383 limitations in general, the FTB concluded that, for California corporate tax purposes, the IRC Section 382 and 383 limitations should be determined on a pre-apportionment basis. The FTB reasoned that these limitations were the product of: (1) the value of the loss corporation, and (2) the long-term rate allowed by the federal government, and that under CRTC Section 25101, apportionment relates to net income, which is comprised of income, deductions, gains, or losses, but that none of the above two components involved any of these net income items. Moreover, the FTB stated that there is no California statutory or case authority that would allow the IRC Section 382 or 383 limitations to be applied on a post-apportionment basis.

Additionally, the FTB concluded that NUBIGs, RBIGs (including those considered under IRC Section 384), NUBILs, and RBILs should be determined on a post-apportionment basis. The FTB explained that these items relate to gains and losses which, in turn, relate to items of income that would be subject to apportionment under CRTC Section 25101. The FTB also stated that, because the RBIGs, RBILs, NUBIGs, and NUBILs relate to the time of the ownership change, the apportionment factor percentage that existed at the date of the ownership change should be applied.

Finally, the FTB concluded that, although IRC Section 383 and Treasury Regulations Section 1383-1 applies for California corporate tax purposes, the California corporate franchise tax rates should be substituted for the federal corporate income tax rates when applying the examples contained in Treasury Regulation Section 1.383-1(f) (which illustrate the application of IRC Section 383) to account for "obvious differences" when applying an applicable Treasury Regulation as required under CRTC Section 23051.5(h)(7).

Considerations

TAM 2017-03 provides guidance on the application of IRC Sections 382, 383, and 384 for California corporate tax purposes. Although the FTB's interpretations in this TAM appear to provide taxpayers with an opportunity to utilize the same IRC Section 382 and 383 limitations for federal and California corporate tax purposes, the TAM does not provide guidance or otherwise address other potential differences between California and federal tax law. For example, unless specifically stated otherwise, California generally does not follow the federal consolidated return regulations under IRC Section 1502 when filing a California combined return. As such, California loss corporations that are members of a California combined return must consider any differences that may result in the determination of their federal IRC Section 382 and 383 limitations for California purposes without regard to application of federal consolidated return

[14] IRC § 382(h)(1)(B).
[15] I.R.S. Notice 2003-65, 2003-2 C.B. 747
[16] IRC § 384.
[17] *Id.*

regulations and principles. Because California requires each taxpayer to carryforward its own NOL and does not have a consolidated NOL, the tracking of separate California limitations may be a challenging exercise for many taxpayers.

Further, as the TAM requires that NUBIGs, RBIGs (including those considered under IRC Section 384), NUBILs, and RBILs should be determined on a post-apportioned basis, consideration should be given as to whether the computation of a NUBIG/NUBIL for California purposes may result in significant differences in California taxable income or the utilization of California tax attributes in the years immediately following the ownership change. For example, RBILs that are determined to be deductible for federal purposes but not deductible for California purposes may also impact that amount of taxable income subject to California apportionment in addition to the amount of limitation applied to the utilization of a California NOL. Additionally, it could further complicate the process of tracking and applying these items in post-change years where some are computed on a pre-apportionment basis while others are computed on a post-apportionment basis, or where the California combined report includes corporations that are not subject to the IRC Section 382 limitations.

Taxpayers that have previously applied IRC Sections 382, 383, or 384 for California corporate tax purposes in a manner that varies with TAM 2017-03 should discuss their options with a California tax specialist, including whether they should re-compute their respective limitations for prior years and file claims for refund for years in which the statute of limitations is open or whether TAM 2017-03 impacts reporting for financial statement purposes.

URL: https://www2.deloitte.com/us/en/pages/tax/articles/california-ftb-issues-guidance-on-carryover-of-tax-attributes-for-apportioning-taxpayers.html

IRS private debt collection program will exclude overseas taxpayers

Overview

In December 2015 the President signed into law the Fixing America's Surface Transportation Act (the "Act"); although the Act was primarily a highway bill to fund repairs and infrastructure, it contained several important revenue provisions impacting US taxpayers. One such provision authorized the IRS to begin collection of certain overdue federal tax debts through private debt collection agencies. The Act allows these designated agencies to work on behalf of the IRS. The IRS is expected to begin notifying taxpayers this summer if their debts have been assigned to a private collection agency.

On May 10, 2017 Bloomberg BNA reported that the IRS informed them that these debt collectors were only licensed to operate in the US and would exclude from the program any taxpayers living overseas. The IRS spokesperson emphasized that overseas taxpayers should ensure that the IRS has their correct foreign address on record to be properly excluded from the program. The comments from the IRS were in response to a letter received May 5, 2017 from the group American Citizens Abroad, a non-profit group that regularly advocates for the rights of overseas taxpayers.

Additional background

Notably, the Act also allowed for the revocation of US passports for individuals with outstanding US tax debt in excess of $50,000. Refer to Global InSight, December 18, 2015 on this topic. This rule remains in place and continues to apply to overseas taxpayers.

Vigilance against scams

With the start of the private debt collection program, the IRS is reminding taxpayers on its website to stay vigilant against scams, which may take the form of unexpected phone calls. The IRS will always send several collection notices through the mail before making phone calls. In addition, the IRS will not threaten taxpayers with imprisonment or lawsuits, ask for credit or debit card numbers over the phone, or request payment via prepaid debit cards or gift cards. Read more on the IRS website about how to know if it's really the IRS calling.

Deloitte's view

Although many overseas taxpayers may not have been aware of the forthcoming debt collection efforts by the IRS, it is a welcome relief that they will be excluded from the program.

However, many taxpayers residing overseas continue to use a US address on their federal tax return for ease of receiving mail from the IRS. Foreign addresses are often incompatible with IRS system limitations in the number of characters permitted to be listed with an address. Because the IRS is using taxpayer addresses as the determining factor in which taxpayers will be included in the private debt collection program, overseas taxpayers may inadvertently be included by virtue of listing a US address on their tax return.

In addition, although overseas taxpayers will not be subject to private debt collection efforts, they still risk revocation of their US passport if they have outstanding US tax debt in excess of $50,000. It continues to remain critical for US citizens living overseas to stay current on their tax liabilities.

URL: https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dtt-tax-globalinsight-170602.pdf

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